

RECORD OF PROCEEDINGS

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2. Court Order dated
3. Court Order dated
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A

PROFORMA FOR FIRST LISTING

SECTION X

The case pertains to (Please tick/check the correct box):

- ☐ Central Act : (Title) A COPY OF THE AADHAAR (TARGETED DELIVERY OF FINANCIAL AND OTHER SUBSIDIES, BENEFITS AND SERVICES) ACT, 2016
- ☐ Section : _____ N/A _____
- ☐ Central Rule : (Title) _____ NA _____
- ☐ Rule No (s) : _____ N/A _____
- ☐ State Act : (Title) _____ N/A _____
- ☐ Section : _____ N/A _____
- ☐ State Rule : (Title) _____ N/A _____
- ☐ Rule No(s) : _____ N/A _____
- ☐ Impugned Interim Order : (Date) _____ NA _____
- ☐ Impugned Final Order/Decree : (Date) _____
- ☐ High Court: (Name) _____
- ☐ Names of Judges: CORAM: _____
- ☐ Tribunal/Authority : (Name) _____ NA _____
-

1. Nature of Matter : ☐ Civil ☐ Criminal

(a) Petitioner/appellant No. 1 : SHANTHA SINHA AND ANOTHER

(b) E-mail ID : _____ N/A _____

(c) Mobile phone number : _____ N/A _____

3 (a) Respondent : UNION OF INDIA AND ANOTHER

b) E-mail ID : _____ N/A _____

(c) Mobile phone number : _____ N/A _____

4. (a) Main category classification : _____

(b) Sub classification : _____

5. Not to be listed before : _____ N/A _____

6. Similar/Pending matter : _____ N/A _____

A-1

7. Criminal Matters :

- (a) Whether accused/convict has surrendered: ☐ Yes ☐ No
- (b) FIR No. Date : NA
- (c) Police Station: NA
- (d) Sentence Awarded : NA
- (e) Sentence Undergone : NA

8. Land Acquisition Matters:

- (a) Date of Section 4 notifications : _____N/A_____
- (b) Date of Section 6 notifications : _____N/A_____
- (c) Date of Section 17 notifications: _____N/A_____

9. Tax Matters : State the tax effect : _____N/A_____

10. Special Category (first petitioner/appellant only): N/A

- ☐ Senior citizen >65 years ☐ SC/ST ☐ Woman/child
- ☐ Disabled ☐ Legal Aid case ☐ In custody

11. Vehicle Number (in case of Motor Accident Claim matters): N/A

12. Decided cases with citation : _____N/A_____

NEW DELHI
FILED ON: -25.04.2017

VIPIN NAIR
ADVOCATE-ON-RECORD
FOR THE PETITIONER(S)
nairvipin73@gmail.com
Registration No. 1295

SYNOPSIS

The present writ petition under Article 32 of the Constitution of India is being filed in public interest raising various issues including among others, protection of fundamental right under Article 14, 19 and 21 of the Constitution of India. The core challenge is the violation of basic human rights of the citizens of this country as a result of the unique identification project (UID Project) which has been validated and given statutory backing by passing of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 ("**impugned Act**"). The Petitioners are also challenging the Notifications issued under Section 7 of the impugned Act, by various Ministries under the Respondent No. 1, making possession of Aadhaar number as a mandatory pre-condition for availing different social benefits.

The UIDAI platform, i.e. the Aadhaar database is being utilised to effect each and every aspect of an individual's life—from holding a valid PAN card, filing income tax returns, maintaining a bank account, getting scholarship, giving examination, admission in colleges, domestic air travel, having a mobile connection etc..

The present matter is of extreme importance and urgency since the Impugned Act is constricting rights and freedoms, which a citizen has long been enjoying, unless and until they part with their personal biometric information to the government.

It is submitted that the Respondents have given a deadline of 30th June 2017 under most of the Notifications issued by the Respondents under Section 7 of the Impugned Act, for an individual to obtain an Aadhaar number in order to continue receiving benefits under government schemes.

Accordingly, from 1st July 2017 an individual who is not willing to part with his personal biometric information will be denied social benefits, which he/she is otherwise entitled to, on the sole basis of non-production of an Aadhaar number.

The present writ petition ought to be allowed for the following reasons: -

1. IMPUGNED ACT CANNOT BE CATEGORIZED AS A MONEY BILL.

There are several other patent flaws with respect to the impugned Act and the Aadhaar project. One of the most striking illegalities is the manner in which the impugned Act came to be passed as a Money Bill without having to secure passage through the Rajya Sabha. The impugned Act cannot in law be characterized as a Money Bill and the impugned Act is stillborn inasmuch as the mandatory legislative process has not been followed. At the time when the Bill was passed on 11.03.2016 by the Lok Sabha the attendance was merely 73 persons out of a Lok Sabha House strength of 543 members. Moreover, when the Rajya Sabha returned the Bill with suggestions/amendments, these came to be considered by the Lok Sabha on 16.03.2016 when none of the amendments /suggestions were accepted.

Apart from there being no adequate debate or discussion despite the serious and severe impact of the Bill on civil liberties; the illegalities that renders the Act unconstitutional and *ultra vires* is its mischaracterization as a Money Bill and the failure to adhere to the constitutional legislative process.

2. IMPUGNED ACT IS CONTRARY TO THE CONCEPT OF 'LIMITED GOVERNMENT'

The Constitution of India like other constitutions that set out the basic law for democratic governance, employs an array of checks and balances to ensure open, accountable government where each wing of the government performs its actions for the benefit of the people and within its sphere of responsibility. The checks and balances are many and amongst them are the respective roles assigned by the Constitution to the legislature, the executive and the judiciary. Under India's federal structure, with a distribution of legislative authority between the Union government and the States, the fields of legislation and corresponding executive authority are also distributed between the Union and the States. Provisions in the Constitution such as the fundamental rights chapter (Part III) and the chapter relating to inter-state trade (Part XIII) also circumscribe the authority of the State. These limitations on the power of the State support the notion of 'limited government'. In this sense, the expression 'limited government' would mean that each wing of government is restricted by provisions of the Constitution and other laws and is required to operate within its legitimate sphere. Exceeding these limits would render the action of the State *ultra vires* the Constitution or a particular law.

The concept of 'limited government' may also be understood in a much broader and different sense. This notion of a limited government is *qua* the citizenry as a whole. There are certain things that the State simply cannot do, because the action fundamentally alters the relationship between the citizen and the State. The wholesale collection of biometric data including finger prints and storing it at a central depository *per se* puts the State in an extremely dominant position in relation to the individual citizen.

Biometric data belongs to the concerned individual and the State cannot collect or retain it to be used against the individual or to his or her prejudice in the future. Further the State cannot put itself in a position where it can track an individual and engage in surveillance. The State cannot deprive or withhold the enjoyment of rights and entitlements by an individual or make such entitlements conditional on a citizen parting with her biometrics.

It is the people of India who declared in the Preamble: -

'We the people of India. . . In our Constituent Assembly this twenty-sixth day of November, 1949, do hereby adopt, enact and give to ourselves this Constitution'.

The Constitution of India is a compact between the people of India and the State. The essence of this compact as evident from the Preamble to the Constitution is that Indian society and the Indian nation would foster justice, liberty, equality and fraternity in the widest sense. The notion of limited government here would mean that every individual citizen and the citizenry collectively are entitled to live, work, and enjoy their varied lives without being under the continuous gaze of the State. Citizens of India enjoy a full and rich raft of rights against the State which are drawn from the common law, statutes, the Constitution and a higher order in the form of the 'basic structure of the Constitution'. Every citizen is entitled to secure an education, hold property, engage in social and cultural activity, travel, pursue vocations, recreations and a myriad other activities without the state knowing about his or her every move or maintaining a centralized record of these activities.

3. **THE IMPUGNED ACTS IMPLEMENTED COERCES INDIVIDUALS TO PART WITH THEIR PERSONAL INFORMATION.**

A citizen is entitled to enjoy all these rights including social and civil rights such as the right to receive an education, a scholarship, medical assistance, pensions and benefits under government schemes without having to part with his or her personal biometrics. An individual's biometrics such as finger prints and iris scan are the property and entitlement of that individual and the State cannot coerce an individual or direct him or her to part with biometrics as a condition for the exercise of rights or the enjoyment of entitlements. Every citizen has a basic right to informational self-determination and the state cannot exercise dominion over a citizen's proprietary information either in individual cases or collectively so as to place itself in a position where it can aggregate information and create detailed profiles of individuals or facilitate this process. The Constitution of India is not a charter for a Police State which permits the State to maintain cradle to grave records of the citizenry.

No democratic country in the world has devised a system similar to Aadhaar which operates like an electronic leash to tether every citizen from cradle to grave.

There can be no question of free consent in situations where an individual is being coerced to part with its biometric information (a) to be eligible for welfare schemes of the State; and/or (b) under the threat of penal consequences. In other words, the State cannot compel a person to part with biometrics as a condition precedent for discharge of the State's constitutional and statutory obligations. The impugned Act inasmuch as it

foists a Faustian Bargain on every citizen and resident is unconstitutional and deeply flawed at its very foundation.

4. **THE IMPUGNED ACT VALIDATES A SCHEME WHICH RESULTS IN EXCLUSION RATHER THAN INCLUSION OF INDIVIDUALS**

It is submitted that biometrics as a technology is unreliable and as applied by the Respondents is serving as an instrument of exclusion depriving persons who are otherwise entitled to financial and other subsidies, benefits and services from receiving these entitlements. Going by the stand of UIDAI itself, the number of cases where de-duplication resulted in the rejection of an application for an Aadhaar number is to the tune of 9 crores out of around 100 crore enrolments. The number 9 crores is just a little less than the population of the State of Bihar and twice the population of Odisha (as per the 2011 census). This shows that every 10th person is not being issued an Aadhaar number (though applied for) because of the flawed biometric technology being used. Further, one study using official data shows that the proportion of "false positives" i.e. duplicates being shown erroneously is unacceptably high, resulting in exclusion of those entitled to benefits. This study suggests that 1/121 is the proportion of false positives by a conservative estimate. This ratio is strongly indicative of the programme excluding individuals who should otherwise receive their entitlements.

The accuracy of biometrics is highly doubtful for a variety of reasons: A person's biometrics change over time; for persons who are engaged in manual labour and also persons who are aged, etc. ridges on the fingers smoothen out and cannot be captured effectively by biometric devices; and

there is no safeguard at the crucial point of capturing the biometric that ensures the integrity of the process at the stage of enrolment.

5. **THE IMPUGNED ACT CREATES AN ENVIRONMENT WHICH CAN BE USED FOR SURVEILLANCE**

The impugned Act is designed to facilitate and encourage private sector operators to create applications that depend upon the Aadhaar data base for the purposes of authentication/verification. This would mean that non-governmental, private sector entities such as banks, employers, any point of payment, taxi services, airlines, colleges, schools, movie theatres, clubs, service providers, travel companies, etc. will all utilise the Aadhaar data base and may also insist upon an Aadhaar number or Aadhaar authentication. This would mean that at every stage in an individual's daily activity his or her presence could be traced to a location in real time.

One of the purposes of Aadhaar as projected by the Respondents is that it will be a single point verification for KYC (Know Your Customer). This is permissible and indeed contemplated by the impugned Act. Given the very poor quality of scrutiny of documents by private enrollers and enrolment agencies (without any governmental supervision) means that the more rigorous KYC process at present being employed by banks and other financial institutions will yield to a system which depends on a much weaker data base. This would eventually imperil the integrity of the financial system and also threaten the economic sovereignty of the nation.

One of the dangers of centralized data bases that are connected to the internet is that the information stored on these computers can be hacked and illegally accessed so as to steal the information. Identity theft enables

third parties to utilize biometric and demographic information stolen and enables these parties to electronically impersonate persons while accessing data that is most sensitive or important for an individual.

Even assuming that the biometrics such as the finger print is unique, the nature of human and societal interactions is such that individuals leave traces of their finger prints on several media in the course of a day. These finger prints can be easily lifted and misused for identity theft. This is quite apart from the Respondents themselves or some agencies of government misusing core biometrics and planting these biometrics to create a false presence or false interactions by an individual. This type of impersonation is facilitated by the impugned Act rendering it patently unconstitutional.

The impugned Act does not serve as an identity as incorrectly projected by the Respondents but serves as a method of identification. Every citizen-state and citizen –service provider interaction requiring identification is sought to be captured and retained by the government at a central base and a whole ecology developed that would require reference to this central data base on multiple occasions in course of the day. In other words, the impugned Act impermissibly creates the foundation for real time, continuous and pervasive identification of citizens in breach of the freedoms guaranteed under the Constitution.

It is in the above facts and circumstances the Petitioners are constrained to file the present writ petition under Article 32 of the Constitution of India, challenging the impugned Aadhaar Act and the impugned provision as being *ultra vires* the Constitution of India.

LIST OF DATES

- 28.01.2009 The Union of India through the Planning Commission issued a Notification dated 28.01.2009, constituted the Unique Identification Authority of India (UIDAI) for the purpose of implementing of Unique Identity (UID) scheme wherein a UID data base was to be collected from the residents of India. Notably, there was no mention of collection of biometric information in the said notification. Furthermore the notification did not provide any checks and balance with regard to the collection, storage, usage of the said information collected pursuant to the UID scheme.
- 03.12.2010 Although the programme was launched in September, 2010 there was no statutory backing of the same. On 03.12.2010, the Union of India introduced the National Identification Authority of India Bill 2010 (NIA Bill) in Parliament. The NIA Act was almost identical in pith and substance to the impugned Aadhaar Act, 2016.
- 13.12.2011 Notably, the said NIA Bill was referred to the Parliamentary Standing Committee on Finance. The Standing Committee gave its report on 13.12.2011, wherein it found several fallacies/lacunas in the NIA Bill. Certain specific objections raised by the standing committee pertained to:
- (i) Privacy issues,

- (ii) Protection of the sensitive biometric information,
- (iii) Private parties' involvement in the collection of the biometric information
- (iv) Lack of appropriate technology in India to sustain such a project
- (v) Possibility of fake Aadhaar numbers being generated due to the inadequate verification system under the UID scheme.

NIL

In spite of the Standing Committee Report, the Government of India failed to correct/cure defects in the UID scheme.

Since the NIA Bill never got passed, the UID scheme continued to operate without any statutory basis or backing.

In an absolutely unscrupulous manner the government/UIDAI continued to collect private biometric information from the citizens under the UID scheme.

Interestingly, there was absolutely no consent, let alone informed consent taken from the individuals who were made to part with their private information. Neither was there any information in the application/enrolment forms regarding the potential use of the said biometric information by the government, nor was there any general public awareness programme carried out by the government to explain the UID programme to the citizens.

The collection/enrolment centres were being run by private parties. There was absolutely no government presence in any of the enrolment centres. There were no Government personnel present in these centres where the individuals were made to give up their private biometric information. Furthermore the collecting agencies were also not government authorities. In fact they were agencies who were contractually related to the UIDAI. Therefore the entire UID programme was being conducted and carried out by private authorities with absolutely no government involvement. The entire UID programme was carried out on the basis of numerous MoUs between UIDAI and the concerned authority.

30.11.2012

Aggrieved by such blatant violation of fundamental rights of the citizens of India, a spate of PILs were filed before this Hon'ble Court. The lead petition before this Hon'ble Court was *Justice K. S. Puttaswamy (Retd) v. Union of India & Ors.*, W.P. (C) No.494/2012. This Hon'ble Court vide Order dated 30.11.2012 issued notice in the said petition.

23.9.2013

The present Petitioners had also filed a PIL titled *S. G. Vombatkere & Anr. v. Union of India & Ors.*, W.P. (C) No. 829/2013. This Hon'ble Court vide order dated 23.09.2013 issued notice in the writ petition, and tagged it along with Writ Petition No. 494/2012.

Further, this Hon'ble Court on being apprised of the unconstitutional nature of the UID scheme and the gross abuse by the government in refusing essential benefits /services to the citizens if they did not possess and Aadhaar Card, passed an Interim Order dated 23.09.2013 where it was held that Aadhaar card should not be made mandatory for providing governmental benefits.

NIL

In spite of the express direction by this Hon'ble Court to not make the use of Aadhaar card as a mandatory requirement, various government authorities, both Central and State, continued to insist upon Aadhaar card as a mandatory condition for providing governmental benefits.

26.11.2013

This Hon'ble Court on being apprised of the continuing violations by the governmental authorities passed another interim order dated 26.11.2013, reiterating its earlier interim order and also impleaded all States and Union territories for effective implementation/enforcement of this Hon'ble Courts interim directions.

24.03.2014

Interestingly, the UIDAI, themselves filed a Special Leave Petition, viz. SLP (Crl) No.2524 of 2014, challenging an order passed by the Bombay High Court requiring them to provide biometric information to CBI for investigation purpose with respect to a criminal trial. This Hon'ble Court vide Order dated 24.03.2014 issued notice in the

said SLP and restrained the UIDAI from transferring any biometrics information to any agency without the written consent of the concerned individual. It was further reiterated that Aadhaar should not be made mandatory for availing any service.

11.08.2015 The aforesaid batch of the writ petitions came up for hearing before a Bench of 3 judges of this Hon'ble Court, wherein vide Order dated 11.08.2015 the petitions were referred to a Constitution Bench. However, this Hon'ble Court passed an interim order directing that "*the production of an Aadhaar Card will not be condition for obtaining any benefits otherwise due to a citizen*".

15.10.2015 Subsequently, a Constitution Bench of this Hon'ble Court passed an Interim Order dated 15.10.2015 and held that,

"5. We will also make it clear that the Aadhaar card scheme is purely voluntary and it cannot be made mandatory till the matter is finally decided by this Court one way or the other."

It is pertinent to point out that in spite of the repeated directions passed by this Hon'ble Court to not make Aadhaar card mandatory for availing benefits of any type, various authorities from time to time have continued to flout and disobey the directions of this Hon'ble Court.

16.3.2016 In the above backdrop, the Union of India, introduced the Aadhaar (Targetted Delivery of Financial and other subsidies, benefits and services) Act, 2016 (impugned Aadhaar Act) as a Money Bill in the Budget Session, 2016

in the Lok Sabha. Even though the impugned Aadhaar Act was in pith and substance identical to the earlier NIA Bill, 2009 and sought to create the UIDAI authority, in order to qualify it as a Money Bill, the objects and purpose was stated be in relation to expenditures arising out of the Consolidated Fund of India. Notably, under section 57 of the impugned Aadhaar Act, the said UID data base shall be available to any private and non governmental authorities to use the same for verification/authentication. Therefore, clearly the scope of the impugned Aadhaar Act is far beyond merely activities relating to expenditure arising out of the Consolidated Fund of India.

However, in spite of strong objections from the Opposition with regard to the impugned Aadhaar Act being introduced as a Money Bill, the same came to be passed on 16.3.2016.

26.3.2016 The impugned Act received Presidential assent and was published in the official gazette on 26.3.2016.

12.7.2016 Vide Notification dated 12.7.2016 certain provisions of the impugned Act was brought into force w.e.f. 12.7.2016.

The Union of India vide Notification dated 12.7.2016 issued under Section 11 of the Impugned Act, established the 2nd Respondent.

12.9.2016 Vide Notification dated 12.9.2016, the remaining provisions of the impugned Act was brought into force.

Section 7 of the impugned Act was brought into force by this Notification.

26.10.2016 Certain other citizens filed a writ petition challenging the impugned Act as being unconstitutional on diverse grounds. The writ petition is WP No. 797/2016 titled '*S.G. Vombatkere and Anr. vs. Union of India & Anr.*'. This Hon'ble Court vide Order dated 26.10.2016, issued rule nisi, and tagged the matter with the above-mentioned petitions, which are pending adjudication before the Constitution Bench.

January to
April, 2017

The Respondent No. 1, through its different Ministries, have issued various Notifications under Section 7 of the impugned Act, i.e. Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016, making the Aadhaar number a mandatory requirement for an individual to avail, and be entitled to, different benefits, services and subsidies.

1.4.2017

The Union of India introduced Section 139AA of the Income Tax Act, 1961 (by way of Section 56 of the Finance Act, 2017) making it mandatory to present an Aadhaar number for the following: - (a) obtaining a permanent account number ("PAN"); (b) continued validity of a person's PAN; and (c) filing one's return of income under the Income Tax Act. The said provision has been brought into force w.e.f. 1.4.2017.

25.4.2017

Hence, the present writ petition is being filed under Article 32 of the Constitution of India as a public interest litigation seeking a writ of mandamus directing that the impugned Act and the impugned provision are *ultra vires* the Constitution of India and is void and illegal.

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2017

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

BETWEEN

1. SHANTHA SINHA
D/O M.ANANDAM,
10-2-3, ENTRENCHMENT ROAD,
WEST MARREDPALLI,
SECUNDERABAD-500026
shanthasinha@gmail.com

2. DR KALYANI MENON SEN
D/O LATE SHRI KG MENON
J-1229, PALAM VIHAR,
GURGAON-122017
kmenonsen@gmail.com

...PETITIONERS

VERSUS

1. UNION OF INDIA, THROUGH THE
SECRETARY, MINISTRY OF FINANCE,
NORTH BLOCK, NEW DELHI-110001.

2. UNIQUE IDENTIFICATION AUTHORITY OF
INDIA A STATUTORY AUTHORITY
ESTABLISHED UNDER THE AADHAAR
(TARGETED DELIVERY OF FINANCIAL AND
OTHER SUBSIDIES, BENEFITS AND
SERVICES) ACT, 2016 HAVING ITS
ADDRESS AT 3RD FLOOR, TOWER-II,
JEEVAN BHARATI BUILDING, CONNAUGHT
CIRCUS, NEW DELHI-110001.

....RESPONDENTS

**WRIT PETITION UNDER ARTICLE 32 OF
THE CONSTITUTION OF INDIA**

**TO
THE HON'BLE THE CHIEF JUSTICE OF
INDIA AND HIS OTHER COMPANION
JUSTICES OF THE HON'BLE THE SUPREME
COURT OF INDIA.**

**THE HUMBLE PETITION OF THE
PETITIONERS ABOVENAMED**

MOST RESPECTFULLY SHOWETH:

1. The Petitioner, a public interest litigant is filing the present Writ Petition against Respondent No.1 and Respondent No.2, This petition challenges the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016

(the impugned Act') inasmuch as it violates and threatens to violate the fundamental rights of the Petitioners and other citizens of India. The impugned Act, in particular, violates the fundamental rights guaranteed under Articles 14, 19 and 21 of the Constitution of India.

The Petitioners, inter alia, seek appropriate declarations to the effect that the impugned Act is *ultra vires* the Constitution of India. Should this Court uphold the validity of the impugned Act, the Petitioners urge an alternative case directed against specific provisions of the impugned Act and seek appropriate declarations with respect to the unconstitutionality of these provisions. The Petitioners seek appropriate declarations regarding their fundamental right to informational self-determination being a facet of Article 21 of the Constitution. Furthermore, the Petitioners seek appropriate writs, in the nature of mandamus or any other appropriate writ, orders and directions with respect to the collection, retention, destruction and use of biometric and demographic information and data of the citizenry under the direct or indirect control of Respondents or which has been gathered by the Respondents or third party enrollers pursuant to the Aadhaar project. The Respondents have issued various notifications under the impugned Act, making Aadhaar a mandatory condition for availing various social welfare schemes.

The UIDAI platform, i.e. the Aadhaar database is being utilised to effect each and every aspect of an individual's life—from holding a valid PAN card, filing income tax returns, maintaining a bank account, getting scholarship, giving examination, admission in colleges, domestic air travel, having a mobile connection etc.

The present matter is of extreme importance and urgency as the Impugned Act, is resulting in constrictions of such rights and freedoms, which a citizen has long been enjoying, unless and until they part with their personal biometric information to the government.

1 (a). The 1st Petitioner is a citizen of India. She headed the National Commission for Protection of Child Rights (NCPCR), Govt. of India as its first Chairperson for two consecutive terms from 2007-2013. As the founder trustee of MVFoundation (MVF) a charitable trust based in Andhra Pradesh she spearheaded a movement for withdrawing over 10 lakh children in the 5-14 years age group from child labour and ensured that all these children are admitted into government schools. She retired as a Professor in Department of Political Science in the University of Hyderabad she has contributed to publications focusing on children's rights. Among other prestigious awards she is a recipient of Ramon Magsasay Award 2003, for community leadership and the Padma Shri by the Government of India in 1998. The Petitioner has no Civil, criminal or revenue litigation involving the Petition, which could have a legal nexus with the issues involved in the present Writ Petition (PIL). The Petitioner has no personal or private interest in the matter. The PAN Number of the Petitioner is AJPPS8783 . The Petitioner's annual income in last AY is Rs. 22 Lac. (approx) Petitioner Email is shanthasinha@gmail.com, and Mob. 9848034228. A resume of the 1st Petitioner's professional work and a copy of the article is annexed hereto and marked as **ANNEXURE -P-1 (PAGES 98 TO 99)**

1(b). The 2nd Petitioner is a citizen of India. She is a feminist researcher who has been working for over 25 years on issues of women's rights. Her work focuses on the impacts of economic policies on the lives of women from marginalised and disadvantaged groups. Her work on the impacts of eviction and resettlement on the lives of urban poor communities is documented in her book Swept Off The Map. She has been involved with the Mahila Samakhya programme for women's education and empowerment since 1995, and has contributed to strengthening the village-level women's groups initiated by this programme. She has written extensively on the Aadhaar experience, in particular its impacts on migrant communities and women

workers in the informal sector. She is well-known internationally for her work on gender and women's rights in organisational and institutional settings. The Petitioner has no Civil, criminal or revenue litigation involving the Petition, which could have a legal nexus with the issues involved in the present Writ Petition (PIL). The Petitioner has no personal or private interest in the matter. The PAN Number of the Petitioner is APJPS7746F. The Petitioner's annual income in last AY is Rs. 18 Lac. (approx). Petitioner Email is kmenonsen@gmail.com, and Mob. 9910306382. A resume of the 2nd Petitioner's professional work and a copy of the article is annexed hereto and marked as **ANNEXURE - P2 (PAGES 100 TO 103)**

The Respondents

2(a). The 1st Respondent is the Union of India.

3.1. The 2nd Respondent is the Unique Identification Authority of India (UIDAI), a statutory authority established under Section 11 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (hereinafter, 'the impugned Act'). It was initially established under an executive notification dated 28.01.2009 and thereafter brought under the 2016 statute.

3.2 The Respondents are amenable to the writ jurisdiction of this Hon'ble Court under Article 32 of the Constitution of India. The Respondents are "State" within the meaning of Article 12 of the Constitution of India.

B. Related matters pending before Constitution Bench.

The writ Petitioners here are aware that certain other Petitioners had earlier filed writ petitions challenging the Aadhaar project (before enactment of the impugned Act) as being unconstitutional on diverse grounds. The lead petition in the said batch of writ petitions is WP No. 494/2012 titled 'Justice K.S.Puttaswamy(ret'd) & Anr vs. Union of India & Ors'. This Hon'ble Court vide Order dated 11.8.2015, referred this petition together with other connected cases to a Constitution Bench of this Hon'ble Court.

3.4 A Constitution Bench of this Court has passed an interim Order dated 15.10.2015 in the above mentioned writ petitions. The matter is pending adjudication before the Constitution Bench.

3.5 Thereafter, certain other Petitioners filed a writ petition challenging the impugned Act as being unconstitutional on diverse grounds. The writ petition is WP No. 797/2016 titled 'S.G. Vombatkere and Anr. vs. Union of India & Anr.'. This Hon'ble Court vide Order dated 26.10.2016, issued rule nisi, and tagged the matter with the above-mentioned petitions, which are pending adjudication before the Constitution Bench.

C. Public Interest Litigation

3.6 This petition is filed as a public interest litigation. Apart from the general public interest, the Petitioners themselves are personally affected by the Impugned Act since the UIDAI platform, i.e. the Aadhaar database is being utilised to effect each and every aspect of an individual's life—from holding a valid PAN card, filing income tax returns, maintaining a bank account, getting scholarship, giving examination, admission in colleges, domestic air travel, having a mobile connection etc. This is resulting in constrictions of such rights and freedoms, which a citizen has long been enjoying, unless and until they part with their personal biometric information to the government.

3.6 The impugned Act, unless set aside as being ultra vires the Constitution of India, will adversely affect and harm citizens across the country, individually and collectively. The Petitioners approach this Hon'ble Court bona fide to prevent the violation of basic human rights that have already occurred as a result of the UID project and which violations will escalate in the future unless checked by this Hon'ble Court. Unless the relief sought is granted, a further loss of thousands of crores of rupees in addition to the funds already wasted

will continue to be caused to the public exchequer. Moreover, the impugned Act will severely dent the national security of the country.

- 3.7 The Petitioners have not filed any other petition challenging the impugned Act.

D. The Challenge and some of the Issues Involved

8. This petition challenges the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (‘the impugned Act’) inasmuch as it violates and threatens to violate the fundamental rights of the Petitioners and other citizens of India. The impugned Act, in particular, violates the fundamental rights guaranteed under Articles 14, 19 and 21 of the Constitution of India.
9. The Petitioners, inter alia, seek appropriate declarations to the effect that the impugned Act is ultra vires the Constitution of India. Should this Court uphold the validity of the impugned Act, the Petitioners urge an alternative case directed against specific provisions of the impugned Act and seek appropriate declarations with respect to the unconstitutionality of these provisions. The Petitioners seek appropriate declarations regarding their fundamental right to informational self-determination being a facet of Article 21 of the Constitution. Furthermore, the Petitioners seek appropriate writs, orders and directions with respect to the collection, retention, destruction and use of biometric and demographic information and data of the citizenry under the direct or indirect control of Respondents or which has been gathered by the Respondents or third party enrollers pursuant to the Aadhaar project.
10. The Respondents have issued various notifications under the impugned Act, making Aadhaar a mandatory condition for availing various social welfare schemes.

11. The UIDAI platform, i.e. the Aadhaar database is being utilised to effect each and every aspect of an individual's life—from holding a valid PAN card, filing income tax returns, maintaining a bank account, getting scholarship, giving examination, admission in colleges, domestic air travel, having a mobile connection etc.
12. The present matter is of extreme importance and urgency as the Impugned Act, is resulting in constrictions of such rights and freedoms, which a citizen has long been enjoying, unless and until they part with their personal biometric information to the government.

E. Brief Facts

13. The Union of India through the Planning Commission issued a Notification dated 28.01.2009, constituting the Unique Identification Authority of India (UIDAI) Act for the purpose of implementing of Unique Identity (UID) scheme wherein a UID data base was to be collected from the residents of India. Notably, there was no mention of collection of biometric information in the said notification. Furthermore the notification did not provide any checks and balance with regard to the collection, storage, usage of the said information collected pursuant to the UID scheme. Copy of the Notification No. A-43011/02/2009-Admm.I dated 28.01.2009 issued by the Planning Commission is filed herewith and marked as ANNEXURE - P-3 – (PAGES_104_TO 110_).
14. The Respondents do not possess the requisite technology for implementing the core biometric identification system. In fact, under the 2009 Notification regime, the UIDAI had entered into arrangements with three consortia, to implement the core biometric identification system in support of the Aadhaar project. These

consortias were entrusted with the task of designing, supplying, commissioning, maintaining and supporting the Biometric Identification System. The leaders of these three consortias are:- (i) Accenture; (ii) Mahindra Satyam & Morpho joint venture, and (iii) L1-Identity Solutions.

L1 Identity Solutions is a large American Defence Contractor based in Connecticut, specializing in biometric technology system. Several of its officers and directors have served with the Central Intelligence Agency (CIA) and other American Defence organisation. The former director of CIA, Mr. George Tenet, is on the Board of Directors of L1 Identity Solutions. L1 Identity Solutions has various contractual relationships with US Department of Defence and other intelligence agencies. This is relevant to note, inasmuch as the biometric information of an Indian resident/citizen can be easily transmitted to foreign government, thereby potentially impacting India's sovereignty, national security and severely undermine the privacy and autonomy of the individuals. True Copy of the relevant excerpts of the Agreement dated 24.8.2010 between the Respondents and M/s L1 Identity Solutions Operating Company Private Limited is annexed hereto and marked as **ANNEXURE – P-4 –**
(PAGES 111 TO 122)

15. Pursuant to the said Notification the Government of India appointed Shri Nandan Nilekani as the Chairman of the UIDAI on 02.07.2009. The UID scheme contemplated that an Aadhaar number which is

random 12 digit number which is unique to all residents of India, be issued to the applicant. This Aadhaar number was generated after collecting the biometric information i.e. finger prints and iris scan, along with demographic information about the individual.

16. The scheme was launched in September, 2010 in the rural areas of Maharashtra. Thereafter it has extended all over India. Approximately, 100 crore individuals have been enrolled under the UID scheme till date. Although Aadhaar was supposed to be voluntary, the government has carried out a concerted and sustained campaign to make the enrolment into the UID scheme virtually mandatory. This was done by various offices across the country insisting upon the Aadhaar number for the purposes of providing a service even where alternative methods of identification were available.
17. It is pertinent to point out that as far as the Petitioners are aware prior to the introduction of the Aadhaar programme, no study or comprehensive legal analysis was undertaken by the Respondents from the standpoint of evaluating the necessity of having a new all pervasive mode for identification, right to privacy, dignity and issue relating to potential surveillance.
18. When the programme was launched in September, 2010 there was no statutory backing for the same. On 03.12.2010, the Union of India introduced the National Identification Authority of India Bill 2010 (NIA Bill) in Parliament. The NIA Bill was very similar to the impugned Aadhaar Act, 2016.

19. The said NIA Bill was referred to the Parliamentary Standing Committee on Finance. The Standing Committee gave its report on 13.12.2011, wherein it found several fallacies/lacunas in the NIA Bill. Certain specific objections raised by the standing committee pertained to:

- (i) Privacy issues,
- (ii) Protection of the sensitive biometric information,
- (iii) Private parties' involvement in the collection of the biometric information,
- (iv) Lack of appropriate technology in India to sustain such a project,
- (v) Possibility of fake Aadhaar numbers being generated due to the inadequate verification system under the UID scheme.

Copy of the Report dated 13.12.2011 placed by the Standing Committee on Finance before the Parliament is filed herewith and marked as **ANNEXURE - P-5 – (PAGES 123 TO 170)**.

20. In spite of the Standing Committee Report, the Government of India failed to correct/cure defects in the UID scheme. The NIA Bill never got passed, and the UID scheme continued to operate without any statutory basis or backing. Private enrollers continued to collect private biometric and demographic information from the citizens under the UID scheme without any authority in law. No written consent, much less informed consent was taken from the individuals who were made to part with their private information. There is no

mention in the application forms specifying the biometrics to be captured. Neither was there any information in the application forms regarding the potential use of the said biometric information by the government, nor was there any general public awareness programme carried out by the government to explain the UID programme to the citizens. True copies of the enrolment/application forms used by UIDAI are annexed hereto and marked as **ANNEXURE - P-6 – (PAGES 171 TO 191)**.

21. The collection/enrolment centres were run by private parties. There was absolutely no government presence in any of the enrolment centres. There were no Government personnel present in these centres where the individuals were made to part with their personal biometric information. The UID programme was operated on the basis of MoUs of doubtful legality between UIDAI and the registrars.
22. Aggrieved by the violation of fundamental rights of the citizens of India, several of PILs were filed before this Hon'ble Court and in High Courts. The lead petition before this Hon'ble Court was *Justice K. S. Puttaswamy (Retd) v. Union of India & Ors.*, W.P. (C) No.494/2012.
23. This Hon'ble Court on being apprised of the unconstitutional nature of the UID scheme and the gross abuse by the government in refusing essential benefits /services to the citizens if they did not possess an Aadhaar Card, passed an Interim Order dated 23.09.2013 where it directed that the Aadhaar card should not be made mandatory for providing governmental benefits. True copy of

the order dated 23.09.2013 passed by this Hon'ble Court in W.P. (C) No.494/2012 is annexed hereto and marked as **ANNEXURE - P7 – (PAGES 172 TO 174)**.

24. In spite of the express direction by this Hon'ble Court to not make the use of Aadhaar card as a mandatory requirement, various government authorities, both Central and State, continued to insist upon Aadhaar card as a mandatory condition for providing services and/or benefits.
25. This Hon'ble Court on being apprised of the continuing violations by the governmental authorities passed another interim order dated 26.11.2013, reiterating its earlier interim order and also impleaded all States and Union territories for effective implementation/enforcement of this Hon'ble Courts interim directions. True copy of the order dated 26.11.2013 passed by this Hon'ble Court in W.P. (C) No.494/2012 is annexed hereto and marked as **ANNEXURE - P-8-(PAGES 175 TO 177)**.
26. The UIDAI, themselves filed a Special Leave Petition, viz. SLP (Crl) No.2524 of 2014, challenging an order passed by the Bombay High Court requiring them to provide biometric information to CBI for investigation purpose with respect to a criminal trial. This Hon'ble Court vide order dated 24.03.2014 issued notice in the said SLP and restrained the UIDAI from transferring any biometrics information to any agency without the written consent of the concerned individual. It was further reiterated that Aadhaar should not be made mandatory for availing any service. True copy of the order dated

24.03.2014 passed by this Hon'ble Court in SLP (Crl.) No.2524/2014 is annexed hereto and marked as **ANNEXURE - P-9 - (PAGES 178 TO 179)**.

27. The aforesaid batch of the writ petitions came up for hearing before a Bench of 3 judges of this Hon'ble Court, wherein vide order dated 11.08.2015 the petitions were referred to a Constitution Bench. However, this Hon'ble Court passed an interim order directing that *"The production of an Aadhaar Card will not be condition for obtaining any benefits otherwise due to a citizen"*. A copy of the Order dated 11.8.2015 referring WP No. 494/2012 titled '*Justice K.S.Puttaswamy(retd) & Anr vs. Union of India & Ors*' together with other connected cases to a Constitution Bench is annexed hereto and marked as **ANNEXURE - P-10 - (PAGES 180 TO 195)**.

28. Subsequently, a Constitution Bench of this Hon'ble Court passed an Interim Order dated 15.10.2015 and held that,

"5. We will also make it clear that the Aadhaar card scheme is purely voluntary and it cannot be made mandatory till the matter is finally decided by this Court one way or the other."

The Order dated 15.10.2015 in WP No. 494/2012 passed by the Constitution Bench of this Court is annexed and marked as **ANNEXURE - P-11 - (PAGES 196 TO 208)**.

29. The impugned Act was published in the Gazette of India on 26.03.2016 and certain provisions were brought into force on 12.7.2016, and remaining provisions were brought into force on 12.9.2016. The 2nd Respondent was established as a statutory

30. In spite of the repeated directions passed by this Hon'ble Court to not make Aadhaar card mandatory for availing benefits of any type, various authorities from time to time have continued to flout and disobey the directions of this Hon'ble Court.
31. In the above backdrop, the Union of India, introduced the Aadhaar (Targetted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016 as a Money Bill in the Budget Session, 2016 in the Lok Sabha.
32. Even though the impugned Aadhaar Act was similar to the earlier NIA Bill, 2009 and sought to create the UIDAI authority, in order to qualify it as a Money Bill, the objects and purpose was stated be in relation to expenditures arising out of the Consolidated Fund of India. Notably, under section 57 of the impugned Aadhaar Act, the said UID data base shall be available to any private and non governmental authorities to use the same for verification/authentication. Clearly the scope of the impugned Act is far beyond merely activities relating to expenditure arising out of the Consolidated Fund of India.
33. After the passing of the impugned Act on 26.03.2016, and before its provisions were notified on 12.9.2016, the Respondents in total disregard to this Court's orders of not making holding of an Aadhaar

number as a mandatory condition, kept making it mandatory for various schemes.

It is submitted that this Hon'ble Court has frowned upon the Respondents action of making the Aadhaar number a mandatory requirement for the purpose of grant of scholarships by the government. This Hon'ble Court vide its Order dated 14.9.2016 in the matter titled, 'All Bengal Minority Student Council and Anr. v. Union of India and Ors.', WP No. 686/2016, has re-iterated that Aadhaar cannot be made a mandatory condition for any government scheme. Copy of the Order dated 14.9.2016 passed by this Court in WP No. 686/2016 is enclosed herewith as **ANNEXURE – P-18 – (PAGES 229 TO 231)**

34. Another group of petitioners, filed a writ petition challenging the impugned Act as being unconstitutional on diverse grounds. The writ petition is WP No. 797/2016 titled '*S.G. Vombatkere and Anr. vs. Union of India & Anr.*'. This Hon'ble Court vide Order dated 28.10.2016, issued rule nisi, and tagged the matter with the above-mentioned petitions, which are pending adjudication before the Constitution Bench. Copy of the Order dated 28.10.2016 in WP No. 797/2016 passed by this Court is filed herewith and marked as **ANNEXURE – P-19 – (PAGES 232)**

35. Notably, the Telecom Regulatory Authority of India (TRAI) had approached this Hon'ble Court by way of an interim application in WP No. 494/2012, making a specific prayer for variation of the Order dated 11.8.2015, to permit them to use the Aadhaar platform

for the e-KYC verification for sim cards. This prayer was expressly rejected by the Constitution Bench of this Court vide Order dated 15.10.2015. However, in spite the specific direction by this Court to not use the Aadhaar platform, TRAI launched the Aadhaar based e-KYC for mobile connections of 16.8.2016. As a matter of fact, the Respondent No. 1/Union of India in a separate proceeding before this Hon'ble Court, has sworn on affidavit that they are using the Aadhaar platform for verification of sim cards. This Hon'ble Court vide Order dated 6.2.2017 in the matter of '*Lokniti Foundation v. Union of India and Anr.*, WP No. 607/2016', has taken note of the same. Copy of the Order dated 6.2.2017 passed by this Hon'ble Court in WP No. 607/2016 is enclosed herewith as **ANNEXURE – P-1 – (PAGES 231 TO 235)**

36. In spite of the repeated directions given by this Hon'ble Court to not make Aadhaar number a mandatory requirement for availing any services, subsidies and benefits, various authorities have continued to flout and disobey the directions of this Hon'ble Court.
37. It is further submitted that the Constitution Bench of this Hon'ble Court vide Order dated 15.10.2015, while modifying its earlier Order dated 11.8.2015, restricted the use of the Aadhaar number to only the following schemes—PDS Scheme, LPG Distribution, Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), National Social Assistance Programme (Old Age Pensions, Widow Pensions, Disability Pensions), Prime Minister's Jan

Dhan Yojana (PMJDY) and Employees' Provident Fund Organisation (EPFO).

38. However, in total disregard to the specific direction by the Constitution Bench of this Hon'ble Court, the Respondents have continued to use Aadhaar number database for purposes other than those permitted by this Hon'ble Court.
39. It is submitted that the Respondent No. 1 through its different Ministries have issued various Notifications under Section 7 of the impugned Act, i.e. Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016, making the Aadhaar number as a mandatory requirement for an individual to avail and be entitled to different benefits, services and subsidies. A table of few of the notified schemes and the beneficiaries thereunder, who would be required to get a Aadhaar number to avail the said benefits is filed herewith and marked as **ANNEXURE – P-1 (PAGES 236 TO 242)**
40. It is submitted that in most of the Notifications, the government has given a deadline of 30th June 2017, for the individual to obtain an Aadhaar number in order to continue receiving the benefit under the said scheme. This means that from 1st July 2017 onwards, an individual who is not willing to part with his personal biometric information will be denied social benefits which he/she is otherwise entitled to on the sole reason of non-production of an Aadhaar number.

41. All the aforesaid Schemes are welfare schemes which have been initiated for the benefits of the citizens. It is respectfully submitted that the responsibility and duties of the State covered by Part IV of the Constitution of India entitled Directive Principles of State Policy oblige the State to conduct its affairs consistent with the policy prescriptions set out in Part IV. Articles 39, 39A, 41, 42, 45, 46, 47 contain provisions that cover the constitutional obligations of the State to extend financial and other subsidies, benefits and services to citizens. Moreover, some of the directive principles have subsequently been engrafted as constitutional rights such as the right to education guaranteed under Article 21A of the Constitution of India as well as statutory rights in terms of the National Food Security Act, 2013 and National Rural Employment Guarantee Act, 2005.
42. As far as the Petitioners are aware that the Union of India through its various ministries have been issuing fresh Notifications almost on a bi-weekly basis, under Section 7 of the impugned Act making holding of an Aadhaar number as a mandatory pre-condition for availing various social welfare schemes. It is the apprehension of the Petitioners that it is only a matter of time before various State governments start issuing similar Notifications to cover State sponsored welfare scheme.
43. Furthermore, over and above these Notifications, various governmental authorities by way of internal instructions or circulars have been making Aadhaar mandatory for availing different facilities

for an individual such as writing CBSE examination, appearing in NEET examination, admission in college etc. It is pertinent to note that none of these receive any funding from the Consolidated Fund of India, and is covered under Section 7 of the impugned Act. A list of such schemes in which the governmental authorities have made Aadhaar mandatory for different schemes not receiving funds from the Consolidated Fund of India is filed herewith and marked as

ANNEXURE – P-1 (PAGES 243)

44. Furthermore, not only governmental authorities, but even private enterprises have started using the Aadhaar platform for the purpose of verifications and authentication. A list of such schemes in which Aadhaar is being used by private parties is enclosed herewith as

ANNEXURE – P-2 (PAGES 244 TO 245)

45. Recently, the Union of India by way of Section 56 of the Finance Act, 2017, as introduced Section 139AA of the Income Tax Act, 1961, making it mandatory to present an Aadhaar number for the following: - (a) obtaining a permanent account number ("PAN"); (b) continued validity of a person's PAN; and (c) filing one's return of income under the Income Tax Act. A copy of the Finance Act, 2017 as published in the Gazette, which introduced Section 139AA in the Income Tax Act, 1961, is annexed and marked as **ANNEXURE - P-**

1 (PAGES 246 TO 247).

46. The Respondents have given the deadline of 30th June 2017, for getting an Aadhaar number to link it with your PAN card and for filing of income tax returns. After 30th June 2017, all such bona fide

tax compliant citizen, who do not intend to part with their personal biometric information, will be declared defaulters under the Income Tax Act. Post- 30th June 2017, the PAN cards of all individuals who refuse to take an Aadhaar number to protect their bodily integrity, will become invalid.

4. That the Petitioner has no other alternative and equally efficacious remedy; and the instant Writ Petition has been filed, inter alia, on the following grounds:

GROUND

The Petitioners submit that the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016 is *ultra vires* illegal, null and void on the following amongst other grounds which are set out hereafter and are without prejudice to one another. The grounds set out below also support the declarations, directions and orders sought for by the Petitioners and each of them, as well, may be treated in the alternative and without prejudice to one another: -

- I. At the outset it is submitted that Parliament lacks legislative competence to pass the impugned Act. Parliament cannot enact a legislation that invades the bodily integrity and personal integrity of Indian citizens. Parliament has no authority to *en masse* collect core biometrics and store these core biometrics at a central location for authentication. Parliament cannot make legislation that provides a framework to so completely overwhelm the citizenry that from the birth of every citizen until his or her death the government maintains a digital record of services, benefits, subsidies and any other facility enjoyed by

the individual. The impugned Act creates a framework that is completely destructive of the essence of individual freedom. Individual freedoms enjoyed by the citizenry mean that there is an expansive and elastic zone of activity where an individual may lead out his or her life without any oversight by the State. The role of the State being limited cannot extend to requiring periodic, frequent authentication or verification or identification through a digital framework that maintains a continuous watch on the citizenry. The impugned Act belongs to an Authoritarian and Police State framework that is completely antithetical to the Constitution of India. The Constitution of India does not confer power on any organ of government including the legislature to create a framework whereby the citizenry is required to digitally record its action and/ or continually report to a central registry maintained by the Respondents.

- II. The Petitioners submit that the impugned Act is still born. The Bill No.47 of 2016 introduced in the Lok Sabha and which upon passage became the impugned Act, was not a Money Bill in terms of Article 110 of the Constitution of India. Even though the object and purpose of the impugned legislation states that it is to be used for the delivery of subsidies, benefits and services expenditure for which is incurred from the Consolidated Fund of India, the real scope of the impugned Act is far beyond what is envisaged under Article 110. A Bill can be correctly termed as a 'Money Bill' under Article 110 if it

contains only provisions dealing with all or any of the matters specifically enumerated in clauses (a) to (g) of Article 110 (1) of the Constitution of India. The said provision deals with matters which relate to expenditure incurred or income received with respect to the Consolidated Fund of India.

It is manifest from a reading of the impugned Act that it deals with several issues that fall outside the limited scope of Article 110. Illustratively, Chapter-II comprising section 3 to 6 covers "Enrolment"; Chapter-III covering sections 7 to 10 deals with 'Authentication'; Chapter-IV covering sections 11 to 23 deals with the establishment, composition, functions, duties and powers of a new statutory authority namely the Unique Identification Authority of India. Similarly, there are extensive provisions covering aspects such as protection of information, the creation of offences and penalties and the enabling the use of the Aadhaar platform by non-governmental and private authorities.

Reading the impugned Act as a whole, this statute is no different from any regular Bill and is extremely similar to the predecessor Bill No.75 of 2010 which was referred to a Parliamentary Standing Committee in the course of Parliamentary deliberations.

Inasmuch as the impugned Act has not followed the constitutional procedure mandated for the passage of a law by disguising the statute as a 'Money Bill', there is no valid

legislative process that has been followed in this case. The Petitioners state that objections were raised to the introduction of Bill No.47 of 2016 as a Money Bill and these objections were rejected by the Hon'ble Speaker. It is respectfully submitted that the legislative process adopted in this case is colourable, contrary to the safeguards in the Constitution for the enactment of a law and are subject to judicial review. It is respectfully submitted that having regard to the drastic consequences on civil liberties that the impugned Act purports to impose, the passage through Parliament is not vulnerable merely on the ground of an irregularity but is completely vitiated on the grounds of patent illegality and unconstitutionality as laid down by a Constitution Bench of this Hon'ble Court in *Raja Ram Pal v. Hon'ble Speaker Lok Sabha & Ors*, (2007) 3 SCC 184 (at paragraph 378, 386).

III. The impugned Act suffers from the vice of excessive delegation. There are certain essential legislative functions that have to be discharged by the legislature alone and that cannot be left to a delegate. In the present case, the vice of excessive delegation applies to several areas where the impugned Act leaves matters entirely to the UIDAI (second respondent). It is respectfully submitted that in the following areas it was impermissible for Parliament to delegate its role, *inter alia*,

- i) The collection of biometric and demographic information can be done only by a government agency and not by a

private entity having regard to the sensitivity and value of the information being collected;

- ii) Every individual from whom information is sought must be counseled by a government official in a verifiable manner about the benefits and pit falls of enrolment;
- iii) Every potential enrollee must be counseled by the government employee that the programme is entirely voluntary and the potential enrollee will not suffer any harm, prejudice, disadvantage if he or she does not enroll;
- iv) No biometric or demographic information can be collected from any person without his or her informed consent in writing and this process would be overseen by a responsible government official;
- v) The storage, collection and operation of the Aadhaar programme must be indigenously operated and maintained without any involvement of foreign corporations or entities that could undermine national security;
- vi) The nature and type of biometric and demographic information to be collected, must be specified by Parliament and cannot be left to the delegate to decide;
- vii) The authority has the power to omit and deactivate a Aadhaar number which by virtue of the impugned Act is

made an essential pre-condition for availing governmental subsidies, benefits, services and other purposes.

Excessive delegation of legislative power illustrated above renders the impugned Act *ultra vires* and unconstitutional.

- IV. An individual's biometrics, specifically finger prints and iris scan (which are covered by the definition of 'core biometric information' contained in section 2(j) of the impugned Act) are the personal property of that individual. Biometrics such as finger prints and iris scan are images or impressions of the physical body of a person and are part of his or her bodily integrity. Finger prints and iris scan are extensions of a person's body and no one can take these impression or images without impacting the bodily integrity of the individual. Any taking of an individual's fingerprints and iris scan without his or her express informed consent in writing amounts to a physical invasion and assault to his or her body.

Personal bodily integrity is guaranteed under Article 21 of the Constitution of India and each person has a fundamental right to self determine as to what he or she would like to do with his or her body and images and impressions such as finger prints and iris scan that are biometric impressions of a body. The Petitioners submit that biometric information relating to a person is owned by that person alone and no third party specifically the State can force or coerce or compel a person to

part with core biometric information save and except in extremely narrow or limited exceptional circumstances such as where a convicted individual is serving time in prison.

The ostensible purpose of the impugned Act is to target financial and other subsidies, benefit and services relating to expenditure incurred by the State from the Consolidated Fund of India to individual residents. It is respectfully submitted that the responsibility and duties of the State covered by Part IV of the Constitution of India entitled Directive Principles of State Policy oblige the State to conduct its affairs consistent with the policy prescriptions set out in Part IV. Articles 39, 39A, 41, 42, 45, 46, 47 contain provisions that cover the constitutional obligations of the State to extend financial and other subsidies, benefits and services to citizens. Moreover, some of the directive principles have subsequently been engrafted as constitutional rights such as the right to education guaranteed under Article 21A of the Constitution of India as well as statutory rights in terms of the National Food Security Act, 2013 and National Rural Employment Guarantee Act, 2005.

It is respectfully submitted that it is constitutionally impermissible for the State to make the discharge of its constitutional and statutory obligations conditional upon an individual parting with his or her core biometrics. The constitutional and statutory obligations exist irrespective of

whether or not a person seeks to protect his or her biological/bodily integrity and personhood by refusing to part with biometric information.

In other words, the State cannot compel a person to part with biometrics as a condition precedent for discharge of the State's constitutional and statutory obligations. There can be no question of free consent in situations where an individual is being coerced to part with its biometric information (a) to be eligible for welfare schemes of the State; and/or (b) under the threat of penal consequences. In other words, the State cannot compel a person to part with biometrics as a condition precedent for discharge of the State's constitutional and statutory obligations. The impugned Act inasmuch as it foists a Faustian Bargain on every citizen and resident is unconstitutional and deeply flawed at its very foundation.

- V. The State's obligation to provide financial and other benefits, subsidies and services extends to a class of citizens or residents based upon certain objective criteria such as household income, gender, age, disability, etc. Persons falling within this group, for short "entitled persons" form a single homogenous class. Each one of them is entitled to one or more benefits in the form of financial subsidies, services, scholarships, etc. Whether or not an individual parts with his or her core biometric information to avail the entitlements is completely irrelevant to his or her

receiving the entitlement which is based on objective criteria. The impugned Act is palpably arbitrary and illegal inasmuch as it creates an artificial impermissible classification between those entitled persons who have parted with biometrics and those entitled persons who have not parted with biometrics. Differently put, the impugned Act creates an artificial difference between those entitled persons who hold an Aadhaar number and those who do not with the latter group being deprived of their entitlements in law.

The object of receiving financial and other subsidies, benefits and services is to advance constitutional, statutory and moral obligations of the State. The parting of biometrics and/or the issuance of an Aadhaar number has no rational nexus to the objects of delivering financial and other subsidies, benefits and services. The impugned Act is clearly violative of Article 14 of the Constitution of India inasmuch as it creates a wrongful classification amongst a homogeneous group of entitled persons and this artificial classification also has no rational nexus to the objects of the constitutional and statutory obligations contained in the Directive Principles of the State Policy, fundamental rights chapter and statutes and programmes with respect to financial subsidies, benefits and services.

VI. Intimately related to the fundamental principle that a person has full dominion and control over her core biometrics -- just as she has over her body and personal autonomy, any collection of personal biometrics can only be done through free and informed written consent on the part of the individual. Here, the Respondents claim that nearly 100 crore persons have been enrolled and issued Aadhaar numbers. The impugned Act purports to validate actions taken prior to bringing into force of the Act in terms of section 59 of the impugned Act.

It is respectfully submitted that no consent whatsoever was taken for any of the enrolments carried out until the bringing into force of the impugned Act. The forms utilized by the private enrolment agencies as prescribed by UIDAI do not even purport to convey consent for either capture or use of biometric information. They do not specify the biometric information being captured. There is no contemporaneous video record of any counselling carried out explaining to the individual the effect and consequences of parting with biometrics or the use to which the biometrics may be put. There is no government official present or any method of objectively assessing the fairness of the consent process (assuming there was one) at the stage of enrolment. In the circumstances, it is respectfully submitted that absent any free consent, much less free informed written consent, given the sensitive nature of the biometric information, the entire collection and record of UIDAI

prior to the impugned enactment amounts to wrongful deprivation of the most intimate personal property of individuals. Indeed, the taking of a person's fingerprints and iris scan without informed consent is a physical invasion of his or her bodily integrity. The Respondents have no authority to retain biometrics illegally obtained. All these records are liable to be destroyed and a certification to that effect issued by the Respondents to the satisfaction of this Court.

The element of free consent is not addressed or adequately protected in the impugned Act even with respect to enrolments subsequent to bringing into force of this Act. The primary reason for this is that the biometric information sought to be taken from an individual is his or her most valuable or precious information. This biometric information can be hacked and stolen from the CIDR as has happened the world over from several highly sensitive protected data repositories. Where centralized biometric data is stolen, the identity of a person is severely compromised because the wrongdoer coming to access this information can impersonate the real individual without the system detecting any mischief. Further, the core biometrics stored in the CIDR may be accessed and planted either with or without the connivance of the Respondents and with no reasonable or realistic manner of the individual being able to disprove the misuse of the biometric information and the planting of say a finger print at a particular location.

The biometric information is extremely sensitive and without prejudice to the Petitioners' contention that the Respondents have no authority in law to en masse collect biometrics of the citizenry, at a minimum, this information is impressed with trust. The Respondents while engaging in the exercise of collecting biometrics act as trustees at every stage. This role of a trustee, given the sensitive nature of the information must be exercised by the State or organs of the State alone and cannot under any circumstances be delegated to private parties operating without any governmental supervision. The crucial stage of obtaining consent/informed consent is entirely in the hands of private players even under the impugned Act. Obtaining free consent from a citizen or resident by which he or she agrees to part with his or her biometrics is a non-delegable fiduciary exercise under the Constitution of India (assuming it is permissible at all). There is no manner whatsoever of the State satisfying itself that free and informed consent was secured and in the event of a dispute in this regard there is no manner of verifying the existence and nature of the consent. In the circumstances, the Petitioners submit that the impugned Act is unconstitutional since even with respect to prospective collection and use of biometric data it does not contain adequate safeguards and does not mandate the conduct of the consent procedure by the State itself.

Further, pursuant to the notifications and statutory amendments being made by the Respondents in view of the impugned Act, the Respondents have completely effaced the concept of free consent. At a minimum, free consent would mean that a proposed enrollee is informed that the issuance of an Aadhaar number is voluntary and no person can suffer any adverse consequence by not enrolling for an Aadhaar number. There can be no question of free consent in situations where an individual is being coerced to part with its biometric information (a) to be eligible for welfare schemes of the State; and/or (b) under the threat of penal consequences.

- VII. The notion of "informed consent" is a much more profound and elaborate concept than mere paper consent. This concept of informed consent has to be understood in the context of the new (untested) technology involving biometric capture and retention for use in a digital world unfamiliar to many of the enrollees. (As set out elsewhere, the biometric technology itself is unreliable and the Respondents have rushed into employing this technology without any satisfactory proof of its efficacy. At the time when the Aadhaar project was launched, there were no satisfactory large scale biometric capture pilot projects conducted to validate the use of this technology and events since the roll out show that the technology being used is a failure and operates to exclude citizens from enjoying their entitlements. The biometric authentication does not work and

is being rejected at the field level. Indeed, the so called uniqueness and reliability of the Respondents' previous claims is severely undermined by section 6 of the Act which recognizes that the biometric and demographic information may have to be updated from time to time to ensure continued accuracy.)

At a minimum, informed consent would require proper and meaningful counselling of the person whose biometric and demographic information is being taken by informing him or her of the following:

- (1) The issuance of the Aadhaar number is voluntary. No person can suffer any adverse consequence by not enrolling for an Aadhaar number.
- (2) A categorical and clear statement to the potential enrollee that the biometric information belongs to him or her and is his or her personal property and that he or she has continuous ownership, dominion and control over this biometric information.
- (3) Should the potential enrollee agree to part with the biometric information, this information would be stored in a CIDR.
- (4) The biometric information stored in the CIDR is connected to the internet and despite security features is capable of

being hacked and breached in which case the biometric information could fall in the hands of wrongdoers.

- (5) The biometric information is captured, stored and retained as well as processed for de-duplication on systems which are using technologies that are not owned by the Respondents/government but are owned and operated by private foreign companies (or companies under the control of foreign corporations) which are associated with foreign governments and their intelligence agencies.
- (6) That none of the persons at the enrolment centers are government employees and that the biometric capture as well as the collection of demographic is in the hands of private entities alone. The documents being shown and retained by the private enrollers could be utilized by the private enrollers for commercial gain.
- (7) The core biometric and demographic information parted with by the enrollee can be used by any wrongdoer to impersonate the individual and can be used to falsely create identities as well as a presence and profile of an individual by a wrongdoer.
- (8) The Respondents will be utilizing the captured biometric information of the enrollee as part of a larger pool of information gathered and will be charging third parties and making profit/earning income / making commercial

gain on the basis of the demographic information collected free of charge from the individual.

- (9) The demographic information collected by the private entities could be utilized by them for their private commercial gain.
- (10) There is no encryption of demographic information collected and the enrollers are required to retain copies of important personal demographic information.
- (11) There is no 'opt out' provision and the enrollee cannot require all information and records of authentication and usage to be destroyed. (There is no right to be forgotten).
- (12) Should the biometric information be illegally obtained by any prosecuting agency then that information can be used in criminal proceedings against the individual and there is no recourse for an individual.
- (13) Demographic information illegally obtained by any prosecuting agency can also be used to incriminate an individual.
- (14) Upon the capture of biometric and demographic information, an enrollee will have no control in the future over updating or correcting this information.
- (15) The enrollee may be excluded from receiving benefits, services, etc. should at a future point the enrollee's

biometrics not get authenticated or match the record of the Respondents, amounting to denial of benefits and services.

- (16) Given the open ended manner in which the Respondents propose to engage in authentication, all nature of benefit services, exercise of rights, enforcement of entitlements, etc may become conditional upon the authentication process.

None of the minimum measures of counselling enumerated above were or are taken. Moreover, a genuine process of securing informed consent would have to be carried out in a language understood by the enrollee and after due and adequate training of the enroller. This too was not done. Further, it is reasonable that where there is any meaningful counselling, several potential enrollees upon being informed about their rights as well as the possible consequences of enrolment would opt out and decline to be enrolled. There is no material to show that upon being counselled persons herded into the enrolment centres declined to part with their biometrics or demographic information. It is submitted that this is a very strong indication of the absence of any meaningful process for securing informed consent and is also indicative of the non-voluntary, coercive method applied to enroll individuals. Moreover, in the backdrop of any express written consent indicating that counselling took place and that consent was

given thereafter, there is no informed consent in the eye of law. The impugned Act is built on the edifice of an illegal programme that has through a process of duplicity gathered personal sensitive data and information from citizens without securing informed consent. The programme is antithetical to fairness and good governance. The impugned Act purports to validate actions taken. However, there cannot be a legal fiction in matters of informed consent on the scale of 1 billion individuals. The impugned Act is colourable because its object is colourable.

VIII. Under the Constitution of India the State has a limited role. Aspects of the doctrine of limited government have been explained in the earlier part of this petition. There are two facets that the Petitioners seek to emphasize here. The first facet is that the State cannot place itself in a position whereby it collects information over the lifetime of a citizen or resident and is in a position to dominate that individual on the basis of the profile of the individual now known to the State. The second facet of the constitutional role of the State is that it is a benign and benevolent State and not a police or authoritarian State. This aspect of a benevolent State is clearly derived from the Independence movement, the constitutional history leading to the framing and adoption of the Constitution of India and the preamble of the Constitution by which the People of India have given themselves the Constitution. A direct obligation on the

State that flows from this is that the State must act in recognition of its limited role and is under an active constitutional duty to preserve and protect the fundamental rights of the citizens. This implies that the State cannot enact a law or create a system in the form of the Aadhaar project which by design and operation will place the State in an extremely dominant position in relation to every citizen.

The impugned Act seeks to sanctify the Aadhaar project. Even when interpreted narrowly, the scope of the Act extends to every "benefit", "service" and "subsidy" defined in sections 2(f), 2(w) and 2(x) of the impugned Act. The scope of these expressions even at their narrowest will cover an individual's life virtually from birth till death. For example, the Aadhaar project is issuing numbers to new born children immediately upon registration of birth, frequently in conjunction with the hospital or maternity facilities. There are several situations where a new born child or the mother may be in need of the benefit or service which would be covered by the scope of these expressions in the impugned Act. Later, children would be entitled to benefits for food, education, scholarships, health interventions, etc. and in each of these situations, the impugned Act envisages authentication through the Aadhaar system. As a person attains adulthood and his or her societal interactions increase, the number of occasions for receiving benefits, services and subsidies may likely increase -- for

example every payment of salary or pension or indeed attendance at a government work place may require Aadhaar authentication.

The Central Identities Data Repository (CIDR) that conducts authentication will electronically retain a record of every such authentication in respect of every residents obtaining government benefits or availing service or subsidy. In this manner, the State is empowered by the Act to collect information of an individual over the course of his or her lifetime. It is respectfully submitted that this centralized collection of information completely alters the relationship between citizen and State. This not only destroys the privacy of an individual with respect to his or her personal activities but it also places the State in a position whereby merely on the basis of aggregate authentication records it can build an entire profile of the individual, community and segment of the citizenry. The impugned Act inasmuch as it enables lifetime records of every individual to be maintained at a centralized data base is destructive of personal freedoms and allows the State to dominate over the people of India.

- IX. The Constitution of India, specifically Articles 14, 19, 20 and 21 proscribe the creation of a surveillance State. The Constitution does not allow any system or programme to be implemented by the State that results in en masse surveillance. The State is

under an obligation under Article 13(2) of the Constitution of India to ensure that it shall not make any law which takes away or abridges the rights conferred under Part III of the Constitution of India. Nevertheless, the impugned Act purports to provide legal sanction to a programme that lays the framework for real time surveillance and that enables surveillance of every Indian.

It is respectfully submitted that the constitutional limitations are such that the Government of India cannot engage in surveillance of Indian citizens even where each of these citizens volunteers to be subject to surveillance.

Simply stated, the biometric capture and authentication procedure operates in the following manner:

- i) Each and every electronic device that is linked to the internet has a unique identification. This is similar to a vehicle registration number or a cellular telephone number or a cheque number which makes that item uniquely identifiable.
- ii) In addition to this generic "unique identification", when an electronic device is linked to the Aadhaar system /server /CIDR, the devices electronically exchange information and at this stage the Aadhaar system will designate a unique identification number to a particular device which is called its registered device ID. This registered device ID

is designed to be the permanent ID in respect of that device qua Aadhaar. Illustratively, if a finger print is being read by a particular authentication device and this authentication device is linked to the Aadhaar System, Aadhaar will designate a specific ID to that device at the first interaction and thereafter whenever that device is linked to Aadhaar, the transmission will be recognized as emanating from that device.

- iii) The transmission between the external device (now with its registered device ID) and the Aadhaar server will be carried on a network comprising wire, as well as wireless systems. Regardless of whether the message is being transmitted through the medium of wire or wireless, a unique electronic path attaches to each transmission. This unique electronic path identifies the links through which the message is transmitted and each of these links is uniquely identifiable.
- iv) In other words, in a transmission between a registered device (e.g. finger print reader) and the CIDR it is technically possible to track and trace the electronic route taken by every transmission. This implies that it is possible to electronically track down the location of every registered device in real time. This is because the Respondents themselves project that the authentication

transaction comprising a cycle of request and response can be completed in as little as 3 to 5 seconds.

- v) Hypothetically, in a situation where Aadhaar authentication is required at the stage of say withdrawing money from an ATM, clocking in at a government office and receiving an LPG cylinder would mean that each of these stages the physical location as well as the broad nature of the transaction would be known to the Respondents or would be easily discernible by the Respondents.

This explanation/illustration is irrefutable and clearly brings out the nature of a surveillance state sanctioned by the impugned Act. The manner in which the Aadhaar CIDR is able to provide authentication and deliver its confirmation/refusal to a particular device is because the electronic path and the terminal device is identifiable and can be easily traced back.

Moreover, consistent with the vision of the Respondents, their spokespersons as well as private entrepreneurs who have expressed an interest in using the Aadhaar platform, the extent and pervasiveness of the surveillance over time will deepen. This is sanctioned by section 57 of the impugned Act.

The upshot is that as a result of the impugned Act being allowed to stand, the State will have a capacity to very easily track down and trace the physical location of every individual

seeking authentication with reasonable accuracy and will also have the capacity to assess the broad nature of the activity the person is engaged in. It is respectfully submitted that the affidavits and reports of technically qualified persons appended to this petition establish how the impugned Act provides a framework for an Authoritarian Police State. The impugned Act will lead to the garrotting of civil liberties.

- X. The impugned Act when examined in the context of the Aadhaar project and programme which it seeks to sanction, ought to be tested for what it is: A statute that seeks to extend and spread the use of Aadhaar identification and make it pervasive. The stated object of the Respondents for several years even prior to the enactment of the impugned law, was to replace multiple identification systems currently in vogue and available to the citizenry, with a single ubiquitous identification mechanism that is the Aadhaar number. A recent media report in the Hindu Delhi edition dated 10.04.2016 validates this apprehension.

The Petitioners submit that this objective of creating a single pervasive identification over time is itself illegal. There are several facets to the illegality and amongst them is the very negation of an individual citizen's freedom to identify through different means. The real objective of the impugned law is itself discriminatory inasmuch as it is based on an impermissible

classification of (i) those who must identify themselves by reference to an Aadhaar number and (ii) persons who wish to identify themselves through varied available means. The State cannot compel identification in one manner alone and withhold benefits, subsidies and services unless that specific method of identification is used by the individuals. The Petitioners submit that the coercive foundation of the impugned Act is in substance and illegal objective that renders the statute *ultra vires* Article 14 of the Constitution of India.

- XI. The impugned Act is contrary to the concept of compelled speech i.e., the State cannot compel an individual to disclose such personal information which he/she may otherwise not want to disclose. Freedom of speech and expression as guaranteed under Article 19(1)(a) of the Constitution of India not only provides the citizens with the right to free speech, but also provide citizens protection against compelled speech. Freedom to express includes freedom not to express.
- XII. The impugned Act completely fails to protect privacy interests. A citizen's right to privacy is a fundamental right that is constitutionally protected. The right to privacy in the context of the impugned Act has many dimensions, *inter alia*, (i) a citizen's complete right over ownership and control of her core biometric information to the exclusion of all others including the State; (ii) a right to self-determination with respect to core biometric

information which right extends even after a person has (voluntarily or otherwise) parted with his or her core biometric information; (iii) a person's inalienable and permanent right against 'digital slavery' implying a right to require the State to unshackle the individual's core biometrics from the records of the State and to compel such records to be erased and removed permanently; (iv) a person's right to prevent the State from using core biometric information to the detriment or prejudice of a person; (v) the right to ensure that the core biometric information is not used to incriminate the person made to part with her biometrics; (vi) the right to personal autonomy which implies that a person may require all core biometric information in the control and custody of a fiduciary or trustee to be destroyed at any point of choosing of that individual; (vii) the right to ensure that the personal biometric information cannot potentially be utilized for surveillance, tracking or tagging or profiling of the individual; (viii) the right of the individual to access and/or update the information held in trust by the State; (ix) the right of the individual to be informed and heard when his or her data (biometric and/or demographic) is sought to be shared with or given access to a third party; (x) the right of the individual to know and verify all the instances in which his or her data (biometric and/or demographic) has been shared with a third party and the purpose thereof; (x) the right of the individual to make enquires

and satisfy himself or herself that whenever personal data is sought to be shared with a third party such sharing takes place only to the extent necessary.

Each of these dimensions of privacy remain unaddressed and/or actively violated by the provisions of the impugned Act. The impugned Act is unconstitutional inasmuch as it violates the fundamental right to privacy.

XIII. Where private sensitive core biometric and demographic information is being stored by the Respondents, minimal standards of national security as well as aspects such as the financial security of the nation require that the Respondents have control over the manner and method of storage, access and operation with respect to Aadhaar data. Here, the systems operating Aadhaar are by third party overseas defence contractors and corporations associated with foreign governments and intelligence agencies. The failure and neglect on the part of the Respondents to create a sufficiently secure system based on indigenous technology, control and checks undermines the Aadhaar project and takes away the credibility, integrity and security of the programme based on which the impugned Act is founded. It is an extension of the fiduciary and trusteeship principle that demands that the government of India itself has complete and comprehensive capacity to deal with every aspect of the Aadhaar programme, specifically the

de-duplication and storage process. The Respondents have no knowledge in this behalf within their own capacity. The third party private defence contractors and multinationals who have provided the biometric recognition and de-duplication technology have power and control to access this data, manipulate this data, transmit this data overseas, remove this data, commercially exploit this data, etc. No provision in the impugned Act requires these technologies and the control of these operations to be handed over and controlled by UIDAI. Under the systems recognized by the impugned statute, these multinational corporations in perpetuity can exercise dominion and control over the Aadhaar authentication system with full access to sensitive biometrics and demographic details of Indian citizens and residents. The impugned Act is based on a programme that is run by a technology over which the Respondents exercise no real control. This amounts to a massive and pervasive national security compromise that is constitutionally impermissible.

- XIV. The Petitioners state that the agreements between the Respondents herein and the foreign corporations permit the foreign corporations to access personal information of citizens as well as residents of India. In other words, these foreign corporations have already obtained access to private, confidential, personal biometric as well as demographic

information belonging to Indians and which was taken by the Respondents.

Two clauses from the agreement dated 24.8.2010 between Respondents (described therein as the 'Purchaser') and M/s. L1 Identity Solution Operating Company Pvt. Ltd. (one of the foreign entity controlled companies running Aadhaar) are relevant to this issue and read:

"3. Conditions Precedent

3.1 This Contract is subject to the fulfillment of the following condition precedent by M/s L-1 Identity Solutions Operating Company.

** * **

d. Where the designated M/s L-1 Identity Solutions Operating Company is a subsidiary of a company or a member of a group of companies or is a joint venture company or is special purpose vehicle (SPV) [formed to execute the obligations under this Contract] and where the Purchaser may specify (on account of the failure of M/s L-1 Identity Solutions Operating Company to fulfill all selection criteria specified in the Bid), the parent or flagship company/majority shareholder of such M/s L-1 Identity Solutions Operating Company having furnished an unconditional, irrevocable and continuing guarantee of an amount equivalent to Rs. 2,88,75,000 on behalf of M/s L-1 Solutions Operating Company in a form and manner acceptable to the Purchaser which would remain valid until such time, beyond the term of the Contract, as may be stipulated by the Purchaser.

e. All the members of the Consortium shall have executed a binding Consortium Contract / Agreement a notarized copy of which shall have been delivered to the Purchaser.

f. All the members of the Consortium shall have executed a Power of Attorney authorizing the Prime Consortium Member to act for and on behalf of the Consortium members, a notarized copy of which shall have been delivered to the Purchaser.

g. Furnishing of such other documents as the Purchaser may specify.

The Purchaser reserves the right to waive any or all of the conditions specified in Clause 3.1 above in writing and no such waiver shall affect or impair any right, power or remedy that the Purchaser may otherwise have.

...

15. Data and Hardware

15.1 By virtue of this Contract, M/s. L-1 Identify Solutions Operating Company/the team of M/s. L-1 Identify Solutions Operating Company may have access to personal information of the Purchaser and/or a third party or any resident of India, any other person covered within the ambit of any legislation as may be applicable. The Purchaser shall have the sole ownership of and the right to use, all such data in perpetuity including any data or other information pertaining to the residents of India that may be in the possession of M/s. L-1 Identify Solutions Operating Company or the Team of M/s. L-1 Identify Solutions Operating Company in

the course of performing the Services under this Contract."

It is respectfully submitted that the impugned Act is *ultra vires* and unconstitutional inasmuch as it severely compromises national security by allowing private data of individuals to be accessed by foreign corporations who may utilize and exploit this data against the interest of individuals as well as against national security interest. Illustratively, once Aadhaar enabled and Aadhaar seeded programmes begin operating, it is possible by tracing authentication requests to track deployments of senior military personnel and other key government officials. Equally, it will be possible to track and locate important individuals and leaders in every field including public affairs, business and professions. Through the aggregation of data it will also be possible to pin point the collective presence of important citizens at a particular location.

- XV. The impugned Act seeks to legitimize an illegal enrolment process that has a very low threshold of credibility in terms of the authenticity of information collected and a complete absence of any information or screening regarding citizenship of the enrollee. The impugned Act purports to target delivery of subsidies, benefits and services for which expenses are incurred from the Consolidated Fund of India, to individuals residing in India, without any reference to citizenship.

The petitioners submit that reading the statute down to its most limited scope, the Act suffers from the vice of being over-inclusive. Funds collected from taxpayers and forming part of the Consolidated Fund of India and which are sought to be targeted to individuals, cannot be indiscriminately disbursed to persons such as illegal immigrants who may claim residence but have no legal right to be in the country. Indeed, the respondents are under a legal and constitutional obligation to deport illegal immigrants.

This Court by an interim order dated 23.09.2013 in the previous writ petition filed by these petitioners, specifically directed that there must be a check on whether the person seeking to enroll is an illegal immigrant and that the Aadhaar number 'should not be given to any illegal immigrant'.

The impugned Act indiscriminately and without any reference to the legal status of a person claiming to reside in India treats those who are legally resident and those are illegally present, as a single homogeneous group for the purposes of targeted deliveries. It is respectfully submitted that illegal immigrants and legal residents cannot in law be treated as a single group for the stated object of targeted delivery in respect of subsidies, benefits and services for which expenses are incurred from the Consolidated Fund of India. The foundation of the impugned Act is unconstitutional having regard to the poorly verified and

unreliable assessment of legal residency at the time of the issuance of the Aadhaar number.

This patent illegality stands validated by well documented reports of Aadhaar numbers being issued to persons of foreign nationalities and allegiance and who work against the national interest. Illustratively, in the Burdwan blast which took place in October, 2015, the arrested Bangladeshi suspect, Tarikul Islam, had an Aadhaar number, which he had used to project himself as an Indian citizen and avoid getting arrested by the NIA. Another instance is where a Special Investigation Team, Hyderabad found that a Pakistani national, Mohammed Mohammad Nasir, who has links with a terror organisation called Harkat-ul-Jihadi Al-Islami (HuJI) had obtained an Aadhaar card.

In the facts and circumstances it was incumbent upon the respondents to make a full and fair disclosure of all facts with respect to the manner in which Aadhaar numbers were issued to the said Tarikul Islam and Mohammed Mohammad Nasir. The respondents have failed and neglected to disclose whether any verification regarding illegal immigrant status was carried out with respect to these individuals at the time of the enrolment.

These illustrations not only highlight the increased national security vulnerability that the impugned Act and the Aadhaar

project appear to facilitate but also expose the ease with which the number is issued without any proper or indeed, adequate scrutiny.

- XVI. The impugned statute is unconstitutional inasmuch as it provides a State-created platform to bridge and connect information relating to an individual that is otherwise stored in separate and distinct silos. Information relating to individuals is generally available with different and distinct service providers such as hospitals, banks, clubs, post offices, employers, transport companies, retailers, etc. The impugned Act facilitates and enables the use and insistence of the Aadhaar number by service providers making it possible for the Respondent State and individual private party service providers to obtain and exchange information about third parties (enrollees) once they have access to an individual's Aadhaar number. The Petitioners submit that this amounts to a constriction of liberty and freedom and is violative of Articles 14, 19 and 21 of the Constitution of India. An individual in the course of interactions and while leading his or her life has every right to restrict the flow of information about himself or herself in relation to a third party. The intended universality of the Aadhaar number promoted through the vehicle of the impugned Act completely destroys an individual's control over his or her personal information and facilitates profiling by both the State as well as

private entities in violation of the fundamental right to privacy as well as inalienable common law right to privacy.

- XVII. The impugned Act is based upon an unreliable technology that depends upon the capture of biometrics. In the case of several citizens, for natural reasons or for reasons of their lifestyle and environment, biometric identification fails. The impugned Act operates to exclude persons from receiving benefits, subsidies and services for no fault on their part only because of a flawed technology, flawed instrumentation and limitations with regard to biometric capture and authentication in relation to lacs of individuals.

It is respectfully submitted that the authentication process using the biometric system is flawed as explained:

1. Unreliability of biometric system for authentication:- The entire basis of the Act and the UID scheme is the use of biometric information to authenticate and provide an unique identification to an individual. It is submitted that biometrics such as finger prints are known to be unreliable as they change from time to time. In fact, this has been recognised in the Act itself wherein it has been provided for updating the data from time to time. In such a situation basing the entire governmental benefit distribution policy on such an unreliable basis is clearly arbitrary and violates Article 14.
2. Biometric Exceptions:- Apart from the unreliability of the biometric system generally, for certain segments of the

population, like blind and physically handicapped persons, providing biometric information such as fingerprints and iris scan are not possible to be captured. Thus it would again lead to exclusion rather than inclusion of all classes of individuals.

3. Unreliability of the technology for authentication:- The object of the Impugned Act is to increase efficiency by using Aadhaar database for authentication. However, the technology required for firstly collecting the data, and secondly for verifying the data is not available with the Indian government. The Indian government is reliant of foreign companies for the necessary technology. Permitting such sensitive data to be available with a foreign company impinges upon the sovereignty of our nation.

It is submitted that the technology required for verification using the database requires excellent internet connectivity. India does not even have basic reliable and continuous electricity supply much less internet connectivity necessary for authentication. All of this operates oppressively to exclude persons otherwise entitled. In the premises, the Petitioners submit that the impugned Act creates an impermissible classification between those whose biometric authentication works and those for whom it does not work, to exclude the latter from receiving benefits, subsidies and services.

The impugned programme as validated by the impugned Act is clearly arbitrary and violative of Article 14 of the Constitution of India.

XVIII. The Petitioners submit that there are specific provisions in the impugned Act that are unconstitutional. These provisions go to the very root of the impugned statute and upon being declared unconstitutional, it is respectfully submitted, the statute itself cannot survive.

i) The Petitioners submit that the notion of Central Identities Data Repository as defined in section 2(h) and which expression is used at numerous places in the statute, is by itself an unconstitutional data base. The statute cannot operate without a CIDR. The notion of a CIDR where every individual's biometric as well as demographic information is centrally stored is an authoritarian or police state construct and has no place in a democracy that guarantees individual freedom. A CIDR from where data can be hacked and which is operated not by the Respondents, but by foreign entities is conceptually and constitutionally an impermissible compromise on national sovereignty and security.

ii) The notion of an enrolling agency as defined in section 2(l) is also unconstitutional inasmuch as the agency as defined need not be a government entity but could be a

private entity. The collection of sensitive personal biometric and demographic data and information for the purposes of storage must be conducted by a government agency alone since this is a bare minimum procedural safeguard against the misuse and commercial exploitation of private personal information. The State, acting as a trustee and fiduciary, cannot delegate or require private enrolling agencies to discharge this non delegable function. Moreover, an enrolling agency that is operated privately cannot be entrusted with the crucial tasks of explaining the voluntary nature of Aadhaar enrolments and securing informed consent.

- iii) The definition of 'Enrolment' contained in section 2(m) is itself unconstitutionally vague and impermissible inasmuch as it fails to prescribe the mandatory precondition of obtaining informed consent in writing voluntarily after appropriately counselling the potential enrollee.
- iv) The expression 'Resident' defined in section 2(v) is arbitrary and unconstitutional inasmuch as the Act creates no credible machinery for evaluating a claim that a person has been residing in India for a period of 182 days or more, in the 12 months immediately preceding the date of application for enrolment. The forms being used by the

Respondents as also proof of identification and proof of address requirement being used by Respondents until enactment of the statute nowhere require any proof relating to residence for 182 days. The impugned Act purports to validate all these enrolments. The forms being used by the Respondents do not even contain a declaration regarding the enrollee being resident for 182 days. Further, there is no requirement in the definition of 'Resident' that the person has to be legally resident and the expression would wrongly take in illegal immigrants as well.

- v) The Petitioners submit that section 3 of the impugned Act is unconstitutional inasmuch as the State cannot exercise dominion and control over individuals *en masse* by collecting biometric and demographic information and rendering the citizenry servile through a framework for profiling and surveillance. Despite being under a constitutional mandate to protect and preserve fundamental rights, the impugned provision of a mass enrolment programme works to curtail and regiment individual conduct. In so far as the Petitioners are aware, no democracy where the citizenry enjoys fundamental civil, political, cultural and social rights has there ever been any similar enrolment programme to collect and thereafter centralize biometric and demographic

information. In contrast, an authoritarian or police state could insist on residents bartering away their bodily integrity for use by the State.

- vi) Section 5 of the impugned Act inasmuch as it extends to children and persons with disabilities implies that the State is securing biometric and demographic data even before the age of consent in so far as children are concerned. The impugned Act in its coercive reach and application to children who have not attained the age of consent is per se unconstitutional and violative of fundamental rights of children.
- vii) Section 6 of the impugned Act is unconstitutional inasmuch as it enables the Respondents to continually compel residents to periodically furnish demographic and biometric information. This provision is coercive in operation and effect and not only undermines the so called 'voluntary' nature of the programme (as falsely claimed by the Respondents) but also undermines the false claim with respect to the 'reliability of biometrics'.
- viii) Section 7 of the impugned Act is patently unconstitutional inasmuch as it seeks to render the constitutional and statutory obligations of the State to provide benefits, subsidies and services, conditional upon an individual parting with his or her biometric and demographic

information. An individual's rights and entitlements cannot be made dependent upon an invasion of his or her bodily integrity and his or her private information which the individual may not be willing to share with the State. The bargain underlying section 7 is an unconscionable, unconstitutional bargain. Section 7 is against the constitutional morality contained in both Part III as well the Part-IV of the Constitution of India.

- ix) Section 8 is unconstitutional inasmuch as it enables tracking, tagging and profiling of individuals through the authentication process. It is a charter for surveillance in real time and with a degree of specificity that enables persons' physical movements to be traced in real time. The authentication mandate in terms of section 8 is not being worked by the Respondents through any proprietary technology and is outsourced to foreign entities or entities under the ownership and control of foreign companies and corporations. The entire framework and working of the authentication procedure in terms of section 8 is an impermissible, permanent and irreversible compromise of national sovereignty and national security.
- x) Section 9 of the impugned Act is also unconstitutional inasmuch as the Aadhaar number is *de facto* serving as

proof of citizenship and domicile. This is seen from various media reports where even in the absence of any rigorous verification process, Aadhaar numbers are being issued. The Petitioners submit that equally subversive of national security and national integrity is the practice of passports being issued based upon an Aadhaar card. In other words, persons who may not be entitled to passports are having Aadhaar numbers issued and thereafter securing passports in violation of citizenship provisions.

- xi) Section 10 of the impugned Act is patently unconstitutional inasmuch as there are no statutory safeguards in relation to the nature of the entities who are charged with establishing and maintaining the sensitive CIDR. This provision suffers from excessive delegation apart from being unconstitutional in terms of failing to protect the national security, sovereignty and integrity.
- xii) The Petitioners submit that the whole of Chapter IV of the impugned Act comprising section 11 to 23 is *ultra vires* and unconstitutional. The Constitution does not permit the establishment of an authority that in turn through an invasive programme can chain every Indian citizen/resident to a central data bank and maintain

lifelong records and logs of that individual. The Constitution of India when read as a whole is designed for a nation of free individuals who enjoy a full range of rights and who are entitled under the Constitution to lead their lives without any monitoring or scrutiny or continuous oversight by the State or any of its organs. The high value of personal freedom runs throughout the fabric of the Indian Constitution and any authority created for the purpose of "cradle to grave" scrutiny is directly violative of the personal freedom charter built into the Indian Constitution. The Constitution of India does not contemplate a 'nanny state' where the State oversees every individual's conduct and maintains a record of individual interactions. The UIDAI by design and function is created for an absolutely unconstitutional objective of invading privacy, electronically overseeing individuals and tethering them to a central data repository that will maintain lifelong records. The notion of individual freedom must entail the right to be alone; the right of an individual to be free from any monitoring so long as that individual does not breach or transgress any criminal law. Here, the establishment of the 2nd Respondent is for an unconstitutional purpose of overseeing and monitoring individual conduct even where the person does not remotely fall foul of any law. The 2nd Respondent is a

State organ designed to invade individual freedom and whose purpose is to constrict individual freedom.

- xiii) The Petitioners submit that section 23 read with section 54 of the impugned Act are unconstitutional on the ground of excessive delegation. A perusal of the sub-clauses in section 23 (2) and the sub-clauses in section 54 (2) indicate that on every crucial aspect pertaining to biometric data, demographic information, the operation and working of the CIDR, generating and assigning Aadhaar numbers, authentication of Aadhaar numbers, omitting and deactivating Aadhaar numbers, commercial exploitation of information collected by Government etc. are all left entirely to the 2nd Respondent without any sufficient defined legislative policy indicating the limits within which the 2nd Respondent may legitimately operate. Having regard to the invasive nature of the Aadhaar programme, its deep and pervasive impact on civil liberties and the fiduciary / trusteeship principle based on which data and information is being collected, it was incumbent upon the legislature to set out detailed and adequate limits to restrict the discretion conferred on the 2nd Respondent. The impugned provisions virtually give an unlimited charter to the 2nd Respondent to ride rough shod over fundamental rights by framing regulations as it pleases.

- xiv) The Petitioners submit that section 29 of the impugned Act is liable to be struck down inasmuch as it permits sharing of identity information. The provisions suffer from the vice of permitting the spread and dissemination of sensitive personal information through a network of entities and individuals for commercial gain or otherwise and allows for the sharing of information beyond the ostensible object of targeted deliveries. The Petitioners submit that both the biometric as well as the demographic information are entitled to the highest degree of protection and the impugned provision inasmuch as it draws a distinction between core biometric information and other information creates an artificial distinction into two classes of information which in law are both entitled to equal protection against sharing or dissemination. The Petitioners submit that this contention also renders section 30 of the impugned Act vulnerable inasmuch as it impermissibly dilutes the protection available to demographic information.
- xv) Section 33 is unconstitutional inasmuch as it provides for the use of the Aadhaar data base for police investigation pursuant to an order of a competent court. Section 33 violates the protection against self incrimination as enshrined under Article 20 (3) of the Constitution of India. Furthermore, section 33 does not afford an opportunity of

hearing to the concerned individual whose information is sought to be released by the UIDAI pursuant to the court's order. This is contrary to the principles of natural justice.

Section 33 (2) provides for disclosure of information in the interest of national security pursuant to a direction of a competent officer. The said provision is also hit by the principles of protection against self incrimination as enshrined under Article 20(3) of the Constitution of India. Further, the impugned Act does not define "interest of national security" or otherwise limit the circumstances where the said provision can be invoked. This makes the impugned provision unconstitutional as it suffers from the vice of vagueness and arbitrariness.

- xvi) Section 47 of the impugned Act is unconstitutional inasmuch as it does not allow an individual citizen who finds that there is a violation of the impugned Act to initiate the criminal process. There could be several circumstances where UIDAI itself or some 3rd party is guilty of having committed offences under the Act. By restricting the initiation of the criminal process, the impugned Act renders the penal machinery ineffective and sterile. The said section creates a bar on a court to take cognizance of any offence under the impugned Act,

save on a complaint made by the UIDAI or an officer authorized by it. In effect there is a bar of cognizance of a complaint made by an individual for breach of his biometric or demographic information which has been collected by the Respondent. Such bar is unconstitutional as it forecloses legal remedy to affected individuals.

- xvii) The Petitioners submit that section 57 is patently unconstitutional inasmuch as it allows an unrestricted extension of the Aadhaar platform to users who may be government agencies or private sector operators. This provision clearly shows that the impugned Act has a much wider scope than what may legitimately be considered as a Money Bill. Moreover, this provision enables the seeding of the Aadhaar number across service providers and other gateways and thereby enables the establishment of a surveillance state. The impugned provision enables the spread of applications and Aadhaar dependent delivery systems that are provided not from Consolidated Fund of India resources but through any other means. It is respectfully submitted that section 57 also enables commercial exploitation of an individual's biometrics and demographic information by the Respondents as well as private entities.

xviii) The Petitioners submit that section 59 of the impugned Act is unconstitutional inasmuch as it seeks to validate all action undertaken by the central government pursuant to the notification dated 28.01.2009. It is submitted that there was no consent, let alone informed consent obtained from individuals at the time of enrolment under the said notification. Such enrolment which has been conducted without obtaining adequate consent is unconstitutional as it amounts to wrongful deprivation of the most intimate personal information of an individual. Indeed, taking of an individual's biometric information without informed consent is a physical invasion of his or her bodily integrity. The collection of demographic information through private entities and without proper counselling or written informed consent is illegal and incapable of being retrospectively ratified. All these records which have been illegally obtained and created without necessary consent ought to be destroyed and cannot be said to be validated by the impugned provision. Parliament cannot create a legal fiction of 'consent' where there was none. The executive under the Constitution of India cannot take away someone's property and then support its action on the prop of law that 'retrospectively' deems consent must have been given. Furthermore the said provision seeks to validate any action taken by the

central government alone. The action of private enrollers is not even sought to be protected. Therefore all collections made by private entities under the said notification should also stand invalidated, and all data collected by private entities should be destroyed forthwith.

- XIX. The Petitioners submit that having regard to the scope of the impugned Act as well as the impugned Aadhaar programme, it is absolutely necessary for this Court to articulate and declare authoritatively rights and entitlements of Indian citizens in the context of the State employing digital tracking, tagging and surveillance methods. The Petitioners seek appropriate declarations as more particularly set out in the prayer clauses.
- XX. It is submitted that by issuing various notifications under Section 7 of the impugned Act, the Respondents have imposed a faulty technology as an onerous conditions to deny certain social benefits, which the government is obligated to provide under Part IV of the Constitution of India. It is submitted that in few of the aforesaid schemes—Mid-day Meal Scheme and Scholarship Schemes—the recipient beneficiaries are children below the age of 18 and disabled persons. The said Schemes requiring such minor children and persons with disabilities to have an Aadhaar number as a condition precedent, implies that the State is securing biometric and demographic data even

before the age of consent in so far as children are concerned. The impugned Act in its coercive reach and application to children who have not attained the age of consent is per se unconstitutional and violative of fundamental rights of children.

The Mid-Day Meal is specially targeted for the benefit of children studying in Classes I to VIII. This Hon'ble Court over the years have consistently accorded a special status to the Mid-Day Meal Scheme, and held it to be a constitutional right under Article 21 of the Constitution of India. The Mid-Day Meal Scheme is an important scheme run by the government for providing a nutritional meal to under-privileged children. According to the World Bank, India has a high percentage of malnourished children. It is nearly twofold of that of Sub Saharan Africa. On the Global Hunger Index, India ranks 67 among 80 countries. In the background to such stark facts and figures, it is irrational and per se unconstitutional for the Government to insist on the Aadhaar number as a mandatory pre-condition for availing benefits, i.e. the hot cooked meal, under the Mid-Day Meal Scheme.

Similarly, making Aadhaar mandatory for the Ujjawala scheme, which provides for rehabilitation of victims of trafficking of commercial sexual exploitation, and for the Bhopas Gas tragedy victims to claim compensation, goes against the very object of the said schemes. This Hon'ble Court has held that right to life

under Article 21 of the Constitution of India means right to life with dignity. Making Aadhaar mandatory for such schemes violates an individual's right to live a dignified life.

Protection of an individual from bonded labour is a fundamental right under Article 23 of the Constitution of India. The Respondent No. 1 has made Aadhaar a mandatory condition for the rehabilitation of rescued bonded labourers in violation of the constitutional mandate under Article 23.

The Respondents have also sought to make Aadhaar a mandatory pre-condition for an individual to travel by air within the country. Such a mandatory condition which requires an individual to part with his/her biometric information, cannot be considered as a reasonable restriction under Article 19(5) to curtail the freedom to move freely throughout the territory of India, as enshrined under Article 19(1)(d) of the Constitution.

G. JURISDICTION

43. This petition is being preferred to this Hon'ble Court under Article 32 of the Constitution of India having regard to the violation of Article 14, 19 and 21 of the Constitution of India as explained above. Having regard to the nationwide implications of the important issues raised in this petition, this Hon'ble Court ought to entertain and hear the present petition. The Petitioners states that they have not filed any other similar petition challenging the impugned Act before this Hon'ble Court or any High Court. However, as set out above, the

Petitioners have challenged the Aadhaar project in their previous writ petition (before enactment of the new law impugned herein).

5. That the Petitioners has not filed any other Petition before any High Court or this Hon'ble Court seeking the same or similar relief.

PRAYERS

In the premises, this Hon'ble Court may be pleased to issue appropriate declarations, writs, orders and directions as set out below:

- i. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 is *ultra vires*, unconstitutional, null and void and in particular violate Articles 14, 19 and 21 of the Constitution of India;
- ii. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that sections 2(h), 2(l), 2(m), 2(v), 3, 5, 6,7,8, 9, 10, Chapter IV, section 23 read with section 54, section 29, section 30, section 33, section 47, section 57 and section 59 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 are *ultra vires*, unconstitutional, null and void and in particular violate Articles 14, 19, 20 (3) and 21 of the Constitution of India;
- iii. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring Notifications issued under Section 7 of the impugned Act as *ultra vires*,

unconstitutional, null and void and in particular violate Articles 14, 19, 20 (3) and 21 of the Constitution of India;

- iv. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that the right to privacy is a fundamental right guaranteed under Part III of the Constitution of India;
- v. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that no person may be deprived of receiving any financial subsidy or other subsidy or benefit or services from the State on the ground that he or she does not have an Aadhaar number;
- vi. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that no person may be deprived of receiving any goods, services or facility from the State or any private entity on the ground that he or she does not have an Aadhaar number;
- vii. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that no person may be deprived of any entitlement in law enforceable against the State or its organs or any private entity on the ground that he or she is does not have an Aadhaar number;
- viii. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that the State as

well as service providers are duty bound to provide equally efficacious methods of access to subsidies, benefits and services as well as for the enforcement of entitlements, without requiring a citizen or person to part with his or her biometrics;

- ix. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that every citizen has a fundamental right to informational self determination which includes a right to withhold biometric as well as demographic information from the State and to place limits on the extent and use of information pertaining to that individual;
- x. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that no person can be deprived of exercising constitutional, statutory, common law, contractual, customary and other rights that he or she otherwise enjoys by the State making the exercise of these rights conditional upon an Aadhaar number or Aadhaar enrolment;
- xi. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that the impugned Act in so far as it applies to persons who have not attained adulthood and are not in a position to consent in law is *ultra vires*, unconstitutional, null and void;

- xii. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that no person may be required to part with his or her core biometrics without pre-counselling, and obtaining prior informed consent in writing from that individual with respect to the use of biometrics;
- xiii. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that the Respondents act as trustees and/or fiduciaries when they hold, retain, use and collect core biometric information and demographic information of individuals under the Aadhaar programme and their duties and role as trustees/fiduciaries is continuous and that the Respondents are duty bound to respond to the requisitions and directions of the individual whose biometric information is with the Respondents including directions to destroy and/or not utilize in any manner information collected from the individual;
- xiv. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that every citizen and human being has a right to be forgotten which includes the right to require the Respondent to destroy all digital records pertaining to the Aadhaar programme including authentication records;

- xv. This Hon'ble Court may be pleased to issue an appropriate writ, order or direction in the nature of mandamus against the Respondents directing them to forthwith clarify by issuing appropriate announcements, circulars and/or directions that no citizen of India is required to obtain an Aadhar number/Aadhar card;
- xvi. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus under Article 32 of the Constitution of India, ordering and directing the Respondents by themselves or through their officers and agents to forthwith forbear from taking any steps in implementation or in furtherance of the impugned Act;
- xvii. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus under Article 32 of the Constitution of India, ordering and directing Respondents by themselves or through their officers and agents to forthwith cease and desist from taking any further steps to enrol individuals and/or collect biometric information and/or issue Aadhaar numbers to them;
- xviii. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus under Article 32 of the Constitution of India, ordering and directing the Respondents by themselves or through their officers and agents forthwith destroy all data and information collected from individuals;

- xix. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus under Article 32 of the Constitution of India, ordering and directing the Respondents by themselves or through their officers and agents to ensure that each and every service provider using the Aadhaar number for identification also extends the service to all persons with alternative identification, on a non-discriminatory basis;
- xx. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus under Article 32 of the Constitution of India, ordering and directing the Respondents by themselves or through their officers and agents to obtain all data (biometric and other) that was taken from individuals under the Aadhaar scheme/UID project and which now lies with private parties and to destroy all such data within a time bound manner;
- xxi. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus under Article 32 of the Constitution of India, restraining all private parties and government organizations in custody or control of any data (biometric or other) that was taken from individuals under the Aadhaar scheme/UID project and which now lies with private parties, from in any manner retaining or using this data;
- xxii. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring that no service

or supply of goods of any type offered by government or private party may be withheld from a person on the basis that he or she does not have an Aadhaar number;

- xxiii. This Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus directing the Respondents to affirm on affidavit that no data collected under Aadhaar scheme/UID project has been transmitted outside India;
- xxiv. This Hon'ble Court may be pleased to award costs relating to the present petition to the Petitioners; and
- xxv. This Hon'ble Court may be pleased to issue any other writ/order/direction in the nature of mandamus as this Hon'ble Court may deem fit and proper in the circumstances of the case.

AND FOR THIS ACT OF KINDNESS , THE PETITIONERS SHALL, AS IN DUTY BOUND , EVER PRAY

DRAWN BY:

UDAYADITYA BANERJEE
& SAMIKSHA GODIYAL
ADVOCATES

FILED BY:

VIPIN NAIR
ADVOCATE-ON-RECORD
FOR THE PETITIONERS

DRAWN ON:-21.4.2017
FILED ON:-24.4.2017
NEW DELHI

IN THE SUPREME COURT OF INDIA

77A

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. _____ OF 2017

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF: -

SHANTHA SINHA AND ANOTHER

...PETITIONERS

VERSUS

UNION OF INDIA AND ANOTHER

...RESPONDENTS

AFFIDAVIT

I, Shantha Singh, aged about 67 years D/o M. Anandam residing at 10-2-3 , Entrenchment Road, West Marredpalli, Secunderabad-500026 now present at New delhi ,do hereby solemnly affirm and state on oath as under:-

1. That I am the Petitioner No. 1 in the accompanying Writ Petition, well conversant with the facts and records of the case in my personal capacity and therefore competent to swear this affidavit. It is stated that the Petitioner will have no personal gain, or has any private motive or oblique reason for filing the present Public Interest Litigation before this Hon'ble Court. I have authorized by the 2nd Petitioner to file the affidavit on her behalf also.



77B

2. I have read and understood the contents of the Synopsis & List of claims Pages 13 to 18 and accompanying writ petition from pages 1 to 77 through para 1 to 5 and annexures thereto namely from through _____ and say that the facts set out therein are true to my knowledge, as well as derived from the records maintained by me and submissions made therein are on legal advice received from my Advocates and believed to be true and correct.

Shaulby
DEPONENT

VERIFICATION:

Verified at New Delhi on this the 24th day of April, 2017 that the contents of paragraphs 1 to 2 of my above affidavit are true and correct to my knowledge, information and belief, that no part of it is false and nothing material has been concealed there from.

Shaulby
DEPONENT

ATTESTED
NOTARY PUBLIC, DELHI
24-04-17

SHRI ANIL K. SHARMA
ADVOCATE

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WRIT PETITION (C) NO. _____ OF 2017

IN THE MATTER OF: -

...PETITIONERS



...RESPONDENTS

AFFIDAVIT

1. That I am the Petitioner No. 2 in the accompanying Writ Petition, well conversant with the facts and records of the case in my personal capacity and therefore competent to swear this affidavit. It is stated that the Petitioner will have no personal gain, or has any private motive or oblique reason for filing the present Public Interest Litigation before this Hon'ble Court.

2. That I have read and understood the contents of the Synopsis and List of dates (Pages B to Q), Writ Petition (Pages 1 to 38)



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and annexures thereto namely from
through and say that the facts set out therein
are true to my knowledge, as well as derived from the
records maintained by me and submissions made therein are
on legal advice received from my Advocates and believed to
be true and correct.

[Signature]
DEPONENT

VERIFICATION:

Verified at New Delhi on this the 24th day of April, 2017 that the
contents of paragraphs 1 to 2 of my above affidavit are true and
correct to my knowledge, information and belief, that no part of it is
false and nothing material has been concealed there from.

[Signature]
DEPONENT

ATTESTED
NOTARY PUBLIC, DELHI
24.04.17



IDENTIFIED
[Signature]



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 19] नई दिल्ली, शनिवार, मार्च 26, 2016/चैत्र 6, 1938 (शक).
No. 19] NEW DELHI, SATURDAY, MARCH 26, 2016/CHAITRA 6, 1938 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th March, 2016/Chaitra 6, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 25th March, 2016, and is hereby published for general information:—

THE AADHAAR (TARGETED DELIVERY OF FINANCIAL AND OTHER SUBSIDIES, BENEFITS AND SERVICES) ACT, 2016

No. 18 OF 2016

[25th March, 2016.]

An Act to provide for, as a good governance, efficient, transparent, and targeted delivery of subsidies, benefits and services, the expenditure for which is incurred from the Consolidated Fund of India, to individuals residing in India through assigning of unique identity numbers to such individuals and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir and save as otherwise provided in this Act, it shall also apply to any offence or contravention thereunder committed outside India by any person.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may, be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Short title,
extent and
commen-
cement.

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Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Aadhaar number" means an identification number issued to an individual under sub-section (3) of section 3;

(b) "Aadhaar number holder" means an individual who has been issued an Aadhaar number under this Act;

(c) "authentication" means the process by which the Aadhaar number along with demographic information or biometric information of an individual is submitted to the Central Identities Data Repository for its verification and such Repository verifies the correctness, or the lack thereof, on the basis of information available with it; ..

(d) "authentication record" means the record of the time of authentication and identity of the requesting entity and the response provided by the Authority thereto;

(e) "Authority" means the Unique Identification Authority of India established under sub-section (1) of section 11;

(f) "benefit" means any advantage, gift, reward, relief, or payment, in cash or kind, provided to an individual or a group of individuals and includes such other benefits as may be notified by the Central Government;

(g) "biometric information" means photograph, finger print, Iris scan, or such other biological attributes of an individual as may be specified by regulations;

(h) "Central Identities Data Repository" means a centralised database in one or more locations containing all Aadhaar numbers issued to Aadhaar number holders along with the corresponding demographic information and biometric information of such individuals and other information related thereto;

(i) "Chairperson" means the Chairperson of the Authority appointed under section 12;

(j) "core biometric information" means finger print, Iris scan, or such other biological attribute of an individual as may be specified by regulations;

(k) "demographic information" includes information relating to the name, date of birth, address and other relevant information of an individual, as may be specified by regulations for the purpose of issuing an Aadhaar number, but shall not include race, religion, caste, tribe, ethnicity, language, records of entitlement, income or medical history;

(l) "enrolling agency" means an agency appointed by the Authority or a Registrar, as the case may be, for collecting demographic and biometric information of individuals under this Act;

(m) "enrolment" means the process, as may be specified by regulations, to collect demographic and biometric information from individuals by the enrolling agencies for the purpose of issuing Aadhaar numbers to such individuals under this Act;

(n) "identity information" in respect of an individual, includes his Aadhaar number, his biometric information and his demographic information;

(o) "Member" includes the Chairperson and Member of the Authority appointed under section 12;

(p) "notification" means a notification published in the Official Gazette and the expression "notified" with its cognate meanings and grammatical variations shall be construed accordingly;

(q) "prescribed" means prescribed by rules made by the Central Government under this Act;

(r) "records of entitlement" means records of benefits, subsidies or services provided to, or availed by, any individual under any programme;

(s) "Registrar" means any entity authorised or recognised by the Authority for the purpose of enrolling individuals under this Act;

(t) "regulations" means the regulations made by the Authority under this Act;

(u) "requesting entity" means an agency or person that submits the Aadhaar number, and demographic information or biometric information, of an individual to the Central Identities Data Repository for authentication;

(v) "resident" means an individual who has resided in India for a period or periods amounting in all to one hundred and eighty-two days or more in the twelve months immediately preceding the date of application for enrolment;

(w) "service" means any provision, facility, utility or any other assistance provided in any form to an individual or a group of individuals and includes such other services as may be notified by the Central Government;

(x) "subsidy" means any form of aid, support, grant, subvention, or appropriation, in cash or kind, to an individual or a group of individuals and includes such other subsidies as may be notified by the Central Government.

CHAPTER II

ENROLMENT

3. (1) Every resident shall be entitled to obtain an Aadhaar number by submitting his demographic information and biometric information by undergoing the process of enrolment:

Aadhaar number.

Provided that the Central Government may, from time to time, notify such other category of individuals who may be entitled to obtain an Aadhaar number.

(2) The enrolling agency shall, at the time of enrolment, inform the individual undergoing enrolment of the following details in such manner as may be specified by regulations, namely:—

(a) the manner in which the information shall be used;

(b) the nature of recipients with whom the information is intended to be shared during authentication; and

(c) the existence of a right to access information, the procedure for making requests for such access, and details of the person or department in-charge to whom such requests can be made.

(3) On receipt of the demographic information and biometric information under sub-section (1), the Authority shall, after verifying the information, in such manner as may be specified by regulations, issue an Aadhaar number to such individual.

4. (1) An Aadhaar number, issued to an individual shall not be re-assigned to any other individual.

Properties of Aadhaar number.

(2) An Aadhaar number shall be a random number and bear no relation to the attributes or identity of the Aadhaar number holder.

(3) An Aadhaar number, in physical or electronic form subject to authentication and other conditions, as may be specified by regulations, may be accepted as proof of identity of the Aadhaar number holder for any purpose.

Explanation.— For the purposes of this sub-section, the expression "electronic form" shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.

Special measures for issuance of Aadhaar number to certain category of persons.

5. The Authority shall take special measures to issue Aadhaar number to women, children, senior citizens, persons with disability, unskilled and unorganised workers, nomadic tribes or to such other persons who do not have any permanent dwelling house and such other categories of individuals as may be specified by regulations.

Update of certain information.

6. The Authority may require Aadhaar number holders to update their demographic information and biometric information, from time to time, in such manner as may be specified by regulations, so as to ensure continued accuracy of their information in the Central Identities Data Repository.

CHAPTER III

AUTHENTICATION

Proof of Aadhaar number necessary for receipt of certain subsidies, benefits and services, etc.

7. The Central Government or, as the case may be, the State Government may, for the purpose of establishing identity of an individual as a condition for receipt of a subsidy, benefit or service for which the expenditure is incurred from, or the receipt therefrom forms part of, the Consolidated Fund of India, require that such individual undergo authentication, or furnish proof of possession of Aadhaar number or in the case of an individual to whom no Aadhaar number has been assigned, such individual makes an application for enrolment:

Provided that if an Aadhaar number is not assigned to an individual, the individual shall be offered alternate and viable means of identification for delivery of the subsidy, benefit or service.

Authentication of Aadhaar number.

8. (1) The Authority shall perform authentication of the Aadhaar number of an Aadhaar number holder submitted by any requesting entity, in relation to his biometric information or demographic information, subject to such conditions and on payment of such fees and in such manner as may be specified by regulations.

(2) A requesting entity shall—

(a) unless otherwise provided in this Act, obtain the consent of an individual before collecting his identity information for the purposes of authentication in such manner as may be specified by regulations; and

(b) ensure that the identity information of an individual is only used for submission to the Central Identities Data Repository for authentication.

(3) A requesting entity shall inform, in such manner as may be specified by regulations, the individual submitting his identity information for authentication, the following details with respect to authentication, namely:—

(a) the nature of information that may be shared upon authentication;

(b) the uses to which the information received during authentication may be put by the requesting entity; and

(c) alternatives to submission of identity information to the requesting entity.

(4) The Authority shall respond to an authentication query with a positive, negative or any other appropriate response sharing such identity information excluding any core biometric information.

Aadhaar number not evidence of citizenship or domicile, etc.

9. The Aadhaar number or the authentication thereof shall not, by itself, confer any right of, or be proof of, citizenship or domicile in respect of an Aadhaar number holder.

Central Identities Data Repository.

10. The Authority may engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as may be specified by regulations.

CHAPTER IV

UNIQUE IDENTIFICATION AUTHORITY OF INDIA

11. (1) The Central Government shall, by notification, establish an Authority to be known as the Unique Identification Authority of India to be responsible for the processes of enrolment and authentication and perform such other functions assigned to it under this Act.

Establishment
of Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be in New Delhi.

(4) The Authority may, with the prior approval of the Central Government, establish its offices at other places in India.

12. The Authority shall consist of a Chairperson, appointed on part-time or full-time basis, two part-time Members, and the chief executive officer who shall be Member-Secretary of the Authority, to be appointed by the Central Government.

Composition
of Authority.

13. The Chairperson and Members of the Authority shall be persons of ability and integrity having experience and knowledge of at least ten years in matters relating to technology, governance, law, development, economics, finance, management, public affairs or administration.

Qualifications
for
appointment
of
Chairperson
and Members
of Authority.

14. (1) The Chairperson and the Members appointed under this Act shall hold office for a term of three years from the date on which they assume office and shall be eligible for re-appointment:

Term of
office and
other
conditions of
service of
Chairperson
and Members.

Provided that no person shall hold office as the Chairperson or Member after he has attained the age of sixty-five years.

(2) The Chairperson and every Member shall, before entering office, make and subscribe to, an oath of office and of secrecy, in such form and in such manner and before such Authority as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson or Member may—

(a) relinquish his office, by giving in writing to the Central Government, a notice of not less than thirty days; or

(b) be removed from his office in accordance with the provisions of section 15.

(4) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and allowances or remuneration payable to part-time Members shall be such as may be prescribed.

15. (1) The Central Government may remove from office, the Chairperson, or a Member, who—

Removal of
Chairperson
and Members.

(a) is, or at any time has been adjudged as insolvent;

(b) has become physically or mentally incapable of acting as the Chairperson or, as the case may be, a Member;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or, as the case may be, a Member; or

(e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest.

(2) The Chairperson or a Member shall not be removed under clause (b), clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard.

Restrictions
on
Chairperson
or Members
on
employment
after cessation
of office.

16. The Chairperson or a Member on ceasing to hold office for any reason, shall not, without previous approval of the Central Government,—

(a) accept any employment in, or be connected with the management of any organisation, company or any other entity which has been associated with any work done or contracted out by the Authority, whether directly or indirectly, during his tenure as Chairperson or Member, as the case may be, for a period of three years from the date on which he ceases to hold office:

Provided that nothing contained in this clause shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company, as defined in clause (45) of section 2 of the Companies Act, 2013;

18 of 2013.

(b) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority;

(c) give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public; or

(d) enter, for a period of three years from his last day in office, into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office.

Functions of
Chairperson.

17. The Chairperson shall preside over the meetings of the Authority, and without prejudice to any provision of this Act, exercise and discharge such other powers and functions of the Authority as may be prescribed.

Chief
executive
officer.

18. (1) There shall be a chief executive officer of the Authority, not below the rank of Additional Secretary to the Government of India, to be appointed by the Central Government.

(2) The chief executive officer shall be the legal representative of the Authority and shall be responsible for—

- (a) the day-to-day administration of the Authority;
- (b) implementing the work programmes and decisions adopted by the Authority;
- (c) drawing up of proposal for the Authority's decisions and work programmes;
- (d) the preparation of the statement of revenue and expenditure and the execution of the budget of the Authority; and
- (e) performing such other functions, or exercising such other powers, as may be specified by regulations.

(3) Every year, the chief executive officer shall submit to the Authority for approval—

- (a) a general report covering all the activities of the Authority in the previous year;
- (b) programmes of work;
- (c) the annual accounts for the previous year; and
- (d) the budget for the coming year.

(4) The chief executive officer shall have administrative control over the officers and other employees of the Authority.

19. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings, including quorum at such meetings, as may be specified by regulations.

Meetings of
Authority.

(2) The Chairperson, or, if for any reason, he is unable to attend a meeting of the Authority, the senior most Member shall preside over the meetings of the Authority.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Members present and voting and in the event of an equality of votes, the Chairperson or in his absence the presiding Member shall have a casting vote.

(4) All decisions of the Authority shall be signed by the Chairperson or any other Member or the Member-Secretary authorised by the Authority in this behalf.

(5) If any Member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any manner coming up for consideration at a meeting of the Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

20. No act or proceeding of the Authority shall be invalid merely by reason of—

Vacancies,
etc., not to
invalidate
proceedings
of Authority.

(a) any vacancy in, or any defect in the constitution of, the Authority;

(b) any defect in the appointment of a person as Chairperson or Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

21. (1) The Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required by the Authority in the discharge of its functions.

Officers and
other
employees of
Authority.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the chief executive officer and other officers and other employees of the Authority shall be such as may be specified by regulations with the approval of the Central Government.

22. On and from the establishment of the Authority—

Transfer of
assets,
liabilities of
Authority.

(a) all the assets and liabilities of the Unique Identification Authority of India, established *vide* notification of the Government of India in the Planning Commission number A-43011/02/2009-Admin. I, dated the 28th January, 2009, shall stand transferred to, and vested in, the Authority.

Explanation.—The assets of such Unique Identification Authority of India shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of such Unique Identification Authority of India and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(b) without prejudice to the provisions of clause (a), all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such Unique Identification Authority of India immediately before that day, for or in connection with the purpose of the said Unique Identification Authority of India, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority;

(c) all sums of money due to the said Unique Identification Authority of India immediately before that day shall be deemed to be due to the Authority; and

(d) all suits and other legal proceedings instituted or which could have been instituted by or against such Unique Identification Authority of India immediately before that day may be continued or may be instituted by or against the Authority.

Powers and
functions of
Authority.

23. (1) The Authority shall develop the policy, procedure and systems for issuing Aadhaar numbers to individuals and perform authentication thereof under this Act.

(2) Without prejudice to sub-section (1), the powers and functions of the Authority, *inter alia*, include—

(a) specifying, by regulations, demographic information and biometric information required for enrolment and the processes for collection and verification thereof;

(b) collecting demographic information and biometric information from any individual seeking an Aadhaar number in such manner as may be specified by regulations;

(c) appointing of one or more entities to operate the Central Identities Data Repository;

(d) generating and assigning Aadhaar numbers to individuals;

(e) performing authentication of Aadhaar numbers;

(f) maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations;

(g) omitting and deactivating of an Aadhaar number and information relating thereto in such manner as may be specified by regulations;

(h) specifying the manner of use of Aadhaar numbers for the purposes of providing or availing of various subsidies, benefits, services and other purposes for which Aadhaar numbers may be used;

(i) specifying, by regulations, the terms and conditions for appointment of Registrars, enrolling agencies and service providers and revocation of appointments thereof;

(j) establishing, operating and maintaining of the Central Identities Data Repository;

(k) sharing, in such manner as may be specified by regulations, the information of Aadhaar number holders, subject to the provisions of this Act;

(l) calling for information and records, conducting inspections, inquiries and audit of the operations for the purposes of this Act of the Central Identities Data Repository, Registrars, enrolling agencies and other agencies appointed under this Act;

(m) specifying, by regulations, various processes relating to data management, security protocols and other technology safeguards under this Act;

(n) specifying, by regulations, the conditions and procedures for issuance of new Aadhaar number to existing Aadhaar number holder;

(o) levying and collecting the fees or authorising the Registrars, enrolling agencies or other service providers to collect such fees for the services provided by them under this Act in such manner as may be specified by regulations;

(p) appointing such committees as may be necessary to assist the Authority in discharge of its functions for the purposes of this Act;

(q) promoting research and development for advancement in biometrics and related areas, including usage of Aadhaar numbers through appropriate mechanisms;

(r) evolving of, and specifying, by regulations, policies and practices for Registrars, enrolling agencies and other service providers;

(s) setting up facilitation centres and grievance redressal mechanism for redressal of grievances of individuals, Registrars, enrolling agencies and other service providers;

(t) such other powers and functions as may be prescribed.

(3) The Authority may,—

(a) enter into Memorandum of Understanding or agreement, as the case may be, with the Central Government or State Governments or Union territories or other agencies for the purpose of performing any of the functions in relation to collecting, storing, securing or processing of information or delivery of Aadhaar numbers to individuals or performing authentication;

(b) by notification, appoint such number of Registrars, engage and authorise such agencies to collect, store, secure, process information or do authentication or perform such other functions in relation thereto,

as may be necessary for the purposes of this Act.

(4) The Authority may engage such consultants, advisors and other persons as may be required for efficient discharge of its functions under this Act on such allowances or remuneration and terms and conditions as may be specified by contract.

CHAPTER V

GRANTS, ACCOUNTS AND AUDIT AND ANNUAL REPORT

24. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority, grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Grants by
Central
Government.

25. The fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India.

Other fees
and revenues.

26. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and
audit.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts, and in particular, shall have the right to demand production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

27. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may from time to time require.

Returns and
annual report,
etc..

(2) The Authority shall prepare, once in every year, and in such form and manner and at such time as may be prescribed, an annual report giving—

- (a) a description of all the activities of the Authority for the previous years;
- (b) the annual accounts for the previous year; and
- (c) the programmes of work for coming year.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER VI

PROTECTION OF INFORMATION

Security and confidentiality of information.

28. (1) The Authority shall ensure the security of identity information and authentication records of individuals.

(2) Subject to the provisions of this Act, the Authority shall ensure confidentiality of identity information and authentication records of individuals.

(3) The Authority shall take all necessary measures to ensure that the information in the possession or control of the Authority, including information stored in the Central Identities Data Repository, is secured and protected against access, use or disclosure not permitted under this Act or regulations made thereunder, and against accidental or intentional destruction, loss or damage.

(4) Without prejudice to sub-sections (1) and (2), the Authority shall—

(a) adopt and implement appropriate technical and organisational security measures;

(b) ensure that the agencies, consultants, advisors or other persons appointed or engaged for performing any function of the Authority under this Act, have in place appropriate technical and organisational security measures for the information; and

(c) ensure that the agreements or arrangements entered into with such agencies, consultants, advisors or other persons, impose obligations equivalent to those imposed on the Authority under this Act, and require such agencies, consultants, advisors and other persons to act only on instructions from the Authority.

(5) Notwithstanding anything contained in any other law for the time being in force, and save as otherwise provided in this Act, the Authority or any of its officers or other employees or any agency that maintains the Central Identities Data Repository shall not, whether during his service or thereafter, reveal any information stored in the Central Identities Data Repository or authentication record to anyone:

Provided that an Aadhaar number holder may request the Authority to provide access to his identity information excluding his core biometric information in such manner as may be specified by regulations.

Restriction on sharing information.

29. (1) No core biometric information, collected or created under this Act, shall be—

(a) shared with anyone for any reason whatsoever; or

(b) used for any purpose other than generation of Aadhaar numbers and authentication under this Act.

(2) The identity information, other than core biometric information, collected or created under this Act may be shared only in accordance with the provisions of this Act and in such manner as may be specified by regulations.

(3) No identity information available with a requesting entity shall be—

(a) used for any purpose, other than that specified to the individual at the time of submitting any identity information for authentication; or

(b) disclosed further, except with the prior consent of the individual to whom such information relates.

(4) No Aadhaar number or core biometric information collected or created under this Act in respect of an Aadhaar number holder shall be published, displayed or posted publicly, except for the purposes as may be specified by regulations.

21 of 2000. 30. The biometric information collected and stored in electronic form, in accordance with this Act and regulations made thereunder, shall be deemed to be "electronic record" and "sensitive personal data or information", and the provisions contained in the Information Technology Act, 2000 and the rules made thereunder shall apply to such information, in addition to, and to the extent not in derogation of the provisions of this Act.

Biometric information deemed to be sensitive personal information.

Explanation.— For the purposes of this section, the expressions—

21 of 2000. (a) "electronic form" shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000;

21 of 2000. (b) "electronic record" shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000;

21 of 2000. (c) "sensitive personal data or information" shall have the same meaning as assigned to it in clause (iii) of the *Explanation* to section 43A of the Information Technology Act, 2000.

31. (1) In case any demographic information of an Aadhaar number holder is found incorrect or changes subsequently, the Aadhaar number holder shall request the Authority to alter such demographic information in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

Alteration of demographic information or biometric information.

(2) In case any biometric information of Aadhaar number holder is lost or changes subsequently for any reason, the Aadhaar number holder shall request the Authority to make necessary alteration in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

(3) On receipt of any request under sub-section (1) or sub-section (2), the Authority may, if it is satisfied, make such alteration as may be required in the record relating to such Aadhaar number holder and intimate such alteration to the concerned Aadhaar number holder.

(4) No identity information in the Central Identities Data Repository shall be altered except in the manner provided in this Act or regulations made in this behalf.

32. (1) The Authority shall maintain authentication records in such manner and for such period as may be specified by regulations.

Access to own information and records of requests for authentication.

(2) Every Aadhaar number holder shall be entitled to obtain his authentication record in such manner as may be specified by regulations.

(3) The Authority shall not, either by itself or through any entity under its control, collect, keep or maintain any information about the purpose of authentication.

33. (1) Nothing contained in sub-section (2) or sub-section (5) of section 28 or sub-section (2) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made pursuant to an order of a court not inferior to that of a District Judge:

Disclosure of information in certain cases.

Provided that no order by the court under this sub-section shall be made without giving an opportunity of hearing to the Authority.

(2) Nothing contained in sub-section (2) or sub-section (5) of section 28 and clause (b) of sub-section (1), sub-section (2) or sub-section (3) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication

records, made in the interest of national security in pursuance of a direction of an officer not below the rank of Joint Secretary to the Government of India specially authorised in this behalf by an order of the Central Government:

Provided that every direction issued under this sub-section, shall be reviewed by an Oversight Committee consisting of the Cabinet Secretary and the Secretaries to the Government of India in the Department of Legal Affairs and the Department of Electronics and Information Technology, before it takes effect:

Provided further that any direction issued under this sub-section shall be valid for a period of three months from the date of its issue, which may be extended for a further period of three months after the review by the Oversight Committee.

CHAPTER VII

OFFENCES AND PENALTIES

Penalty for impersonation at time of enrolment.

34. Whoever impersonates or attempts to impersonate another person, whether dead or alive, real or imaginary, by providing any false demographic information or biometric information, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or with both.

Penalty for impersonation of Aadhaar number holder by changing demographic information or biometric information.

35. Whoever, with the intention of causing harm or mischief to an Aadhaar number holder, or with the intention of appropriating the identity of an Aadhaar number holder changes or attempts to change any demographic information or biometric information of an Aadhaar number holder by impersonating or attempting to impersonate another person, dead or alive, real or imaginary, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine which may extend to ten thousand rupees.

Penalty for impersonation.

36. Whoever, not being authorised to collect identity information under the provisions of this Act, by words, conduct or demeanour pretends that he is authorised to do so, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Penalty for disclosing identity information.

37. Whoever, intentionally discloses, transmits, copies or otherwise disseminates any identity information collected in the course of enrolment or authentication to any person not authorised under this Act or regulations made thereunder or in contravention of any agreement or arrangement entered into pursuant to the provisions of this Act, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Penalty for unauthorised access to the Central Identities Data Repository.

38. Whoever, not being authorised by the Authority, intentionally,—

- (a) accesses or secures access to the Central Identities Data Repository;
- (b) downloads, copies or extracts any data from the Central Identities Data Repository or stored in any removable storage medium;
- (c) introduces or causes to be introduced any virus or other computer contaminant in the Central Identities Data Repository;
- (d) damages or causes to be damaged the data in the Central Identities Data Repository;
- (e) disrupts or causes disruption of the access to the Central Identities Data Repository;
- (f) denies or causes a denial of access to any person who is authorised to access the Central Identities Data Repository;

- (g) reveals any information in contravention of sub-section (5) of section 28, or shares, uses or displays information in contravention of section 29 or assists any person in any of the aforementioned acts;
- (h) destroys, deletes or alters any information stored in any removable storage media or in the Central Identities Data Repository or diminishes its value or utility or affects it injuriously by any means; or
- (i) steals, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used by the Authority with an intention to cause damage,

shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine which shall not be less than ten lakh rupees.

Explanation.—For the purposes of this section, the expressions “computer contaminant”, “computer virus” and “damage” shall have the meanings respectively assigned to them in the *Explanation* to section 43 of the Information Technology Act, 2000, and the expression “computer source code” shall have the meaning assigned to it in the *Explanation* to section 65 of the said Act.

39. Whoever, not being authorised by the Authority, uses or tampers with the data in the Central Identities Data Repository or in any removable storage medium with the intent of modifying information relating to Aadhaar number holder or discovering any information thereof, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine which may extend to ten thousand rupees.

Penalty for tampering with data in Central Identities Data Repository.

40. Whoever, being a requesting entity, uses the identity information of an individual in contravention of sub-section (3) of section 8, shall be punishable with imprisonment which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Penalty for unauthorised use by requesting entity.

41. Whoever, being an enrolling agency or a requesting entity, fails to comply with the requirements of sub-section (2) of section 3 or sub-section (3) of section 8, shall be punishable with imprisonment which may extend to one year or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Penalty for non-compliance with intimation requirements.

42. Whoever commits an offence under this Act or any rules or regulations made thereunder for which no specific penalty is provided elsewhere than this section, shall be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to twenty-five thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees, or with both.

General penalty.

43. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

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Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Act to apply for offence or contravention committed outside India.

44. (1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person, irrespective of his nationality.

(2) For the purposes of sub-section (1), the provisions of this Act shall apply to any offence or contravention committed outside India by any person, if the act or conduct constituting the offence or contravention involves any data in the Central Identities Data Repository.

Power to investigate offences.

45. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector of Police shall investigate any offence under this Act.

2 of 1974.

Penalties not to interfere with other punishments.

46. No penalty imposed under this Act shall prevent the imposition of any other penalty or punishment under any other law for the time being in force.

Cognizance of offences.

47. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Authority or any officer or person authorised by it.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under this Act.

CHAPTER VIII

MISCELLANEOUS

Power of Central Government to supersede Authority.

48. (1) If, at any time, the Central Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that a public emergency exists,

the Central Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1), superseding the Authority,—

(a) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the

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Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other Members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

49. The Chairperson, Members, officers and other employees of the Authority shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, officers, etc., to be public servants.

50. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act be bound by such directions on questions of policy, as the Central Government may give, in writing to it, from time to time:

Power of Central Government to issue directions.

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section:

Provided further that nothing in this section shall empower the Central Government to issue directions pertaining to technical or administrative matters undertaken by the Authority.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

51. The Authority may, by general or special order in writing, delegate to any Member, officer of the Authority or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under section 54) as it may deem necessary.

Delegation.

52. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Authority or the Chairperson or any Member or any officer, or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rule or regulation made thereunder.

Protection of action taken in good faith.

53. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which and the authority before whom the oath of office and of secrecy is to be subscribed by the Chairperson and Members under sub-section (2) of section 14;

(b) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the allowances or remuneration payable to Members of the Authority under sub-section (4) of section 14;

(c) the other powers and functions of the Chairperson of the Authority under section 17;

(d) the other powers and functions of the Authority under clause (r) of sub-section (2) of section 23;

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(e) the form of annual statement of accounts to be prepared by Authority under sub-section (1) of section 26;

(f) the form and the manner in which and the time within which returns and statements and particulars are to be furnished under sub-section (1) of section 27;

(g) the form and the manner and the time at which the Authority shall furnish annual report under sub-section (2) of section 27;

(h) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

Power of
Authority to
make
regulations

54. (1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder, for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the biometric information under clause (g) and the demographic information under clause (k), and the process of collecting demographic information and biometric information from the individuals by enrolling agencies under clause (m) of section 2;

(b) the manner of verifying the demographic information and biometric information for issue of Aadhaar number under sub-section (3) of section 3;

(c) the conditions for accepting an Aadhaar number as proof of identity of the Aadhaar number holder under sub-section (3) of section 4;

(d) the other categories of individuals under section 5 for whom the Authority shall take special measures for allotment of Aadhaar number;

(e) the manner of updating biometric information and demographic information under section 6;

(f) the procedure for authentication of the Aadhaar number under section 8;

(g) the other functions to be performed by the Central Identities Data Repository under section 10;

(h) the time and places of meetings of the Authority and the procedure for transaction of business to be followed by it, including the quorum, under sub-section (1) of section 19;

(i) the salary and allowances payable to, and other terms and conditions of service of, the chief executive officer, officers and other employees of the Authority under sub-section (2) of section 21;

(j) the demographic information and biometric information under clause (a) and the manner of their collection under clause (b) of sub-section (2) of section 23;

(k) the manner of maintaining and updating the information of individuals in the Central Identities Data Repository under clause (f) of sub-section (2) of section 23;

(l) the manner of omitting and deactivating an Aadhaar number and information relating thereto under clause (g) of sub-section (2) of section 23;

(m) the manner of use of Aadhaar numbers for the purposes of providing or availing of various subsidies, benefits, services and other purposes for which Aadhaar numbers may be used under clause (h) of sub-section (2) of section 23;

(n) the terms and conditions for appointment of Registrars, enrolling agencies and other service providers and the revocation of appointments thereof under clause (i) of sub-section (2) of section 23;

(o) the manner of sharing information of Aadhaar number holder under clause (k) of sub-section (2) of section 23;

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(p) various processes relating to data management, security protocol and other technology safeguards under clause (m) of sub-section (2) of section 23;

(q) the procedure for issuance of new Aadhaar number to existing Aadhaar number holder under clause (n) of sub-section (2) of section 23;

(r) manner of authorising Registrars, enrolling agencies or other service providers to collect such fees for services provided by them under clause (o) of sub-section (2) of section 23;

(s) policies and practices to be followed by the Registrar, enrolling agencies and other service providers under clause (r) of sub-section (2) of section 23;

(t) the manner of accessing the identity information by the Aadhaar number holder under the proviso to sub-section (5) of section 28;

(u) the manner of sharing the identity information, other than core biometric information, collected or created under this Act under sub-section (2) of section 29;

(v) the manner of alteration of demographic information under sub-section (1) and biometric information under sub-section (2) of section 31;

(w) the manner of and the time for maintaining the request for authentication and the response thereon under sub-section (1), and the manner of obtaining, by the Aadhaar number holder, the authentication records under sub-section (2) of section 32;

(x) any other matter which is required to be, or may be, specified, or in respect of which provision is to be or may be made by regulations.

55. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both the Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Laying of rules and regulations before Parliament.

56. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Application of other laws not barred.

57. Nothing contained in this Act shall prevent the use of Aadhaar number for establishing the identity of an individual for any purpose, whether by the State or any body corporate or person, pursuant to any law, for the time being in force, or any contract to this effect:

Act not to prevent use of Aadhaar number for other purposes under law.

Provided that the use of Aadhaar number under this section shall be subject to the procedure and obligations under section 8 and Chapter VI.

58. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

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Savings.

59. Anything done or any action taken by the Central Government under the Resolution of the Government of India, Planning Commission bearing notification number A-43011/02/2009-Admin. I, dated the 28th January, 2009, or by the Department of Electronics and Information Technology under the Cabinet Secretariat Notification bearing notification number S.O. 2492(E), dated the 12th September, 2015, as the case may be, shall be deemed to have been validly done or taken under this Act.

DR. REETA VASISHTA,
Additional Secy. to the Govt. of India.

ANNEXURE P-1**Resume of Professor Shantha Sinha**

Professor Shantha Sinha headed the National Commission for Protection of Child Rights (NCPCR), Govt. of India as its first Chairperson for two consecutive terms from 2007-2013. In this capacity she addressed issues concerning violation of children's rights in relation to child labour and child trafficking; rights of children in areas of civil unrest; children's right to education; juvenile justice system; corporal punishment, child abuse and violence on children; child malnutrition and so on.

Some of the Committees she served are Member- National Integration Council GOI, Member- Sub-Committee of Central Advisory Board of Education to draft the 'Right to Education' Act, Member-Empowered Committee for Mid -Day Meal Scheme, GOI, Member- Expert Committee for the Prime Minister's Award for Excellence in Public Administration, Chairperson-Standing Committee on Women's Studies, University Grants Commission, Chairperson, Global Board of Independent Human Rights Institutions for Children, Chairperson, National Curriculum Framework for Adult Education, GOI and so on.

As the founder trustee of MVFoundation (MVF) a charitable trust based in Andhra Pradesh she spearheaded a movement for withdrawing over 10 lakh children in the 5-14 years age group from child labour and ensured that all these children are admitted into government schools. Every child is tracked until they finish 10th grade. MVF pioneered the program for mainstreaming children to schools through residential bridge courses. 1500 villages where MVF has intervened have achieved retention of 99% of all children in schools up to 10th class.

She retired as a Professor in Department of Political Science in the University of Hyderabad she has contributed to publications focusing on children's rights.

Among other prestigious awards she is a recipient of Ramon Magsasay Award 2003, for community leadership and the Padma Shri by the Government of India in 1998.

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ANNEXURE P-2**Resume of Dr. Kalyani Menon-Sen**

Dr Kalyani Menon Sen is a feminist scholar and activist who has been working for 25 years on issues of women's rights.

She is an internationally-known expert on gender mainstreaming and is consulted by several development organisations including the United Nations Development Programme, where she is a long-term advisor to the UNDP global gender team.

She is a member of Gender at Work, a global collective of practitioners on gender equality in organisational and institutional settings. Her work focuses on the impact of economic policies on marginalised women, particularly migrant women, women farmers, and women in the informal sector.

She is the author of several books including "Women in India: How Free? How Equal?" and "Swept Off the Map: Eviction and Resettlement in Delhi".

She has been a member of the National Resource Group for the MahilaSamakhya ('MS') programme for women's education and empowerment, and has worked with MS in Kerala, Uttar Pradesh and Telengana. She is in the forefront of movements on violence against women and has researched, written and campaigned on the issue.

Her work as an independent researcher has focused on building links between advocacy for change in macroeconomic policies, and communities who are directly experiencing a crisis of survival. She has developed tools and methodologies for economic literacy for use by grassroots groups including rural women's groups and urban poor communities. She has been studying and documenting the effects of Aadhar on migrant women, women workers in the informal sector and urban poor communities.

Selected publications.

1. "Feminist experiments with integral methodologies for organisational change". 2016. Integral Review. Awaiting publication.
2. "Aadhar: Wrong Number or Big Brother Calling?". Socio-Legal Review Vol 11(2) 2015.
3. "Empowerment in a Minor Key" in "MahilaSamakhya: Cartographies of Empowerment". Zubaan India. 2012.
4. "Gender Mainstreaming: A Road Well-Travelled but a Long Way to Go" in "Gender equality and Human Development in the Asia-Pacific Region". UNDP Regional Centre for Asia Pacific. 2011.
5. "Microcredit: Magic Bullet or Poison Pill?". Kalyani Menon-Sen and Kalpana Kannabiran in Michele Kelley and Deepika D'Souza (eds) "The World Bank in India: Undermining Sovereignty, Distorting Development". Orient Black Swan, New Delhi. 2010.
6. "Women in Kaimur Reclaim Their Right to Land" in "In search of economic alternatives for social justice: Voices from India". WIDE. 2010.
7. "Trade Liberalisation, Gender Equality and Policy Space: The Case of the EU-India FTA". Christa Wichterich and Kalyani Menon-Sen. WIDE. 2009.
8. "Swept off the Map. Surviving Eviction and resettlement in Delhi". Yoda Press. 2008.
9. "Better to Have Died Than Live Like this: Women and Evictions in Delhi". Kalyani Menon-Sen. Economic and Political Weekly, 20 May 2006.
10. "En Route to Equality. A Gender Review of National MDG Reports", Kalyani Menon-Sen. UNDP New York. 2005.

11. "National MDG Reports: A Look Through A Gender Lens". Kalyani Menon-Sen. UNDP New York. 2003.
12. "Women's Movements in South Asia: Politics of Place". Kalyani Menon-Sen. Paper presented at World Congress on Sociology, Brisbane, Australia, 7-13 July 2002.
13. "Bridges Over Troubled Waters: South Asian Feminists Interrogate Globalisation". Kalyani Menon-Sen. Development, October 2001.
14. "What does the feminisation of labour mean for sustainable livelihoods?" Nazneen Kanji and Kalyani Menon-Sen. IIED Bulletin, September 2001.
15. "Perspectives on Indian Women's Movements". Kalyani Menon-Sen. Seminar, September 2001.
16. "Gender, governance and the feminisation of poverty". Kalyani Menon-Sen. Paper presented at OECD-DAC Expert Group Meeting, Vienna, 23-25 April 2001.
17. "Budget 2001: A quick look through a gender lens". Kalyani Menon-Sen and K.SeetaPrabhu. Economic and Political Weekly, April 2001.
18. "Women in India: How Free? How Equal?". Kalyani Menon-Sen and A.K.Shiv Kumar. UNDP India. January 2001.
19. "Finding a foothold: the ecology of gender mainstreaming in a large organisation". Kalyani Menon-Sen. Paper presented at International Conference on Mainstreaming Gender in Policy and Planning, Development Planning Unit, University of London, July 1999.
20. "Feminist training: Precepts and Practice". Kalyani Menon-Sen, UP MahilaSamakhya Society, 1994.

21. "Knowledge is like flowing water: Experiments in learning in Mahila Samakhya". Kalyani Menon-Sen and AbhaBhaiya. Department of Education, Government of India, 1994.

22. "We Can Change Our World". Kalyani Menon-Sen. Department of Education, Government of India. 1994.

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ANNEXURE P-3

(TO BE PUBLISHED IN PART-I, SECTION-2 OF
THE GAZETTE OF INDIA)

GOVERNMENT OF INDIA
PLANNING COMMISSION

Yojana Bhawan Sansad Marg,

New Delhi,

28th January, 2009

NOTIFICATION

No. A-43011/02/2009-Admn.I: In pursuance of Empowered Group of Minister fourth meeting, dated 4th November 2008, the Unique Identification Authority of India (UIDAI) is hereby constituted and notified as an attached office under aegis of Planning Commission with following terms of reference and initial core staff composition-

COMPOSITION

2. UIDAI shall be set up with an initial core team of 115 officials and staff as per details given below:

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Post	Level	No. of Posts
UID Authority of India		
Director General & Mission Director	Additional Secretary Govt. of India	1
Deputy director General (DDG)	Joint Secretary, Govt. of India	1
Assistant Director General (ADG)	Director, Govt. of India	1
Support Staff		
PS	PS	3
Peon	Peon	2
Driver	Driver	2
Total Manpower		10
State/UT Units of UIDAI		
State/UT UID Commissioner	Joint Secretary, Govt. of India	35
Support Staff		
PS	PS	35
Peon	Peon	35
Total Manpower		105
GRAND TOTAL		115

Role and Responsibilities of UIDAI

3. UIDAI shall have the responsibility to lay down plan and policies to implement UID Scheme, shall own and operate UID database and be responsible for its updation and maintenance on an ongoing basis.
4. Implementation of UID Scheme will entail, infer alia, following responsibilities being undertaken by UIDAI;
 - Generate and assign UID to residents
 - Define mechanisms and processes for interlinking UID with partner databases on a continuous basis
 - Frame policies and administrative procedures related to updation mechanism and maintenance of UID database on an ongoing basis
 - Co-ordinate / liaise with implementation partners and user agencies as also define conflict resolution mechanism

- Define usage and applicability of UID for delivery of various services
- Operate and manage all stages of UID lifecycle
- Adopt phased approach for implementation of UM specially with reference to approved timeline
- Take necessary steps to ensure collation of NPR with UID (as per approved strategy)
- Ensure ways for leveraging field level institutions appropriately such as Pills in establishing linkages across partner agencies as well as its validation while cross linking with other designated agencies
- Evolve strategy for awareness and communication of UID and its usage
- Identify new partner /user agencies

- Issue necessary instructions to agencies that undertake creation of databases, to ensure standardization of data elements that are collected and digitized and enable collation and correlation with UID and its partner databases
 - Frame policies and administrative procedures related to hiring / retention / mobilization of resources, outsourcing of various tasks and budgeting & planning for UIDAI and all State units under UIDAI.
5. Planning Commission shall be the nodal agency for UIDAI for providing logistics, planning and budgetary support. Planning commission would provide initial office and IT infrastructure at central level.
6. Government housing will be provided to officers of UIDAT appointed on deputation

from general pool of Department of Urban
Development.

(Dr. Subba Pani)

Secretary to the Government of India

The General Manager
Govt. of India Press
Faridabad

Copy to:

1. Secretary to the President, Rashtrapati Bhavan, New Delhi
2. Secretary to the Vice-President, Maulana Azad Road, New Delhi
3. Cabinet Secretary, Rashtrapati Bhavan New Delhi
4. Principal Secretary to the Prime Minister, South Block, New Delhi
5. Private Secretary to the Deputy Chairman, Planning Commission
6. All Ministers/Departments of Govt. of India

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7. Chief Secretaries of all States/Union Territories
8. Secretary General, Rajya Sabha Secretariat, New Delhi
9. Secretary General, Lok Sabha Secretariat, New Delhi
10. Pr. Adviser (Admn & PCPS & FA/Adviser (C & I/Director (GA)/DS (Admn.)
11. Pay & Accounts Officer, Planning Commission
12. Drawing & Disbursing Officer, Planning Commission
13. Accounts -I. Section, Planning Commission.

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ANNEXURE P-4

CONTRACT AGREEMENT

THIS CONTRACT AGREEMENT ("Agreement") made
the 24th day of August, 2010

BETWEEN

The President of India acting through the
Director General, Unique Identification Authority
of India (UIDA) (hereinafter referred to as
"Purchaser") which expression shall unless
repugnant to the context or meaning thereof
mean and be deemed to include its authorized
agents.

AND

The Party M/s L-1 Identity Solutions Operating
Company Private Limited a company
incorporated under the Indian Companies Act,
1956 having its registered office at 2, Frontline
Grandeur 14 Walton Road, Bangalore 560001
(hereinafter referred to as L-1 India a subsidiary
of L-Identity Solutions Company, a Delaware
USA corporation (identified in Purchaser's Bid
document as the "Prime Consortium Member"

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and Prime Bidder and hereinafter referred to as
'Biometric Solution Provider" Or BSP Which
expression shall unless repugnant to the context
or meaning thereof mean and be deemed to
include its successors and permitted assigns of
the other Part.

ANNEXURE A

General Conditions of Contract

1.
2.
- a.
- b.
- c. unless otherwise specified a reference
to a clause, sub-clause or section is a
reference to a clause, sub-clause or
section of the Contract including any
amendments or modifications to the
same from time to time.
- d. a word in the singular includes the
plural and a word in the plural includes
the singular;

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- e. a word imparting a gender includes any other gender.
- f. a reference to a person includes a partnership and a body corporate.
- g. a reference to legislation includes legislation repealing, replacing or amending that legislation
- h. where a word or phrase is given a particular meaning it includes the appropriate grammatical forms of that word or phrase which have corresponding meanings.
- i. In the event of an inconsistency between the terms of, this contract and the Bid the terms hereof shall prevail.

3. Conditions Precedent

- 3.1 This Contract is subject to the fulfillment of the following conditions precedent by M/s L-1 Identity Solutions Operating Company.

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- a. Furnishing of a unconditional, irrevocable and continuing Bank Guarantee of the sum of Rs, 2,88,75,000 in a form and manner acceptable to the Purchaser, which would remain valid until such time and be renewable as may be stipulated by the Purchaser.
- b. Execution of a Deed of Indemnity in terms of Clause 16 of this Contract.
- c. Obtaining of all statutory and other approvals required for the performance of wherever applicable that maybe required for execution of this contract e.g. clearances from the Government authorities for importing equipment, exemption of Tax/Duties/Levies, work permits/clearances for M/s L-1 Identity Solutions Operating Company/the team of M/s L-1 Identity Solutions Operating Company etc.

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- d. Where the designated M/s L-1 Identity Solutions Operating Company is a subsidiary company or a member of a group of companies or is a joint venture company or is special purpose vehicle (SPV) formed to execute the obligations under the Contract and where the Purchaser may specify (on account of the failure of M/s L-1 Identity Solutions Operating Company to fulfill all selection criteria specified in the Bid), the parent or flagship company/majority shareholder of such M/s L-1 Identity Solutions Operating Company having furnished an unconditional irrevocable and continuing guarantee of an amount equivalent to Rs. 2,88,75000 on behalf of M/s L-1 Identity Solutions Operating Company in a form and manner acceptable to the Purchase which would remain valid until such time, beyond

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the terms of the Contract as may be stipulated by the Purchaser.

- e. All the members of the Consortium shall have executed a binding Consortium Contract / Agreement a notarized copy of which shall have been delivered to the Purchaser.
- f. All the members of the Consortium shall have executed a Power of Attorney authorizing the Prime Consortium Member to act for and on behalf of the Consortium members a notarized copy of which shall have been delivered to the Purchaser.
- g. Furnishing of such other documents as the Purchaser may specify.

The Purchaser reserves the right to waive any or all of the conditions specified in Clause 3.1 above in writing and no such waiver shall affect or

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impair any right, power or remedy that the Purchaser may otherwise have.

13.5 Record of Contract documents

13.5.1 M/s L-1 Identity Solutions Operating Company shall at all time make and keep sufficient copies of the Contract documents, manuals, reference material, drawings, specifications and any other document required by him to fulfill his duties under the contract.

13.5.2 M/s L-1 Identity Solutions Operation Company shall keep at each Datacenter Site and UIDAI location, adequate number of copies of all documents required to fulfill his duties under the Contract, in excess of his own requirement and those copies shall be available at all times for use by the Purchaser's Representative and/or by any other person authorized by the Purchases Representative.

14. Ownership and Retention of Documents

14.1 The Purchaser shall own the documents, proposed by or for M/S L-1 Identity Solutions Operating Company arising out of or in connection with this Contract.

14.2 The Documents shall be retained by M/s L-1 Identity Solutions Operating Company not more than a period of 2 years as per Retention Policy of Government of India or any other policy that UIDAI may adopt in future.

14.3 Forthwith upon expiry or earlier termination of this Contract and at any other time on demand by the Purchaser, M/s L-1 Identity Solutions Operating Company shall deliver to the Purchaser all Documents provided by Or originating from the Purchaser and all Documents produced by or from or for M/s L-1 Identity Solutions Operating

Company in the course of performing Services, unless otherwise directed in writing by the Purchaser at no additional cost. M/s L-1 Identity Solutions Operating Company shall not, without the prior written Consent of the Purchaser store, copy, distribute or retain any such Document.

15. Date and Hardware

15.1 By virtue of this Contract M/s L-1 Identity Solutions Operating Company / the Team of M/S L-1 Identity Solutions Operating Company may have access to personal information of the Purchaser and/or a third party or any resident of India, any other person covered within the ambit of any legislation as may be applicable. The Purchaser shall have the sole ownership of and the right to use, all such data in perpetuity including any data or other information pertaining to the residents of India that may be in the possession of M/S

L-1 Identity Solutions Operating Company
or the team of M/s L-1 Identity Solutions
Operating Company in the course of
performing the services under this Contract.

15.2 The Purchaser shall have the sole
Ownership of and the right of use,
proprietary Biometric templates of residents
of India as created and maintained by M/s
L-1 Identity Solutions Operating Company in
the course of performing the services under
this contract. In the event of termination or
expiry of contract, M/s L-1 Identity
Solutions Operating Company shall transfer
all the proprietary templates to UIDAI in an
electronic storage media in a form that is
freely retrievable for reference and usage in
future.

16. Indemnity.

16.1 M/s L-1 Identity Solutions Operating
Company shall execute and furnish to the
Purchaser, a Deed of Indemnity in favour of
the Purchaser in a form and manner

acceptable to the Purchaser, indemnifying the Purchaser from and against any costs, loss, damages, expense, claims including those from third parties on liabilities of any kind however suffered, arising or incurred inter alia during and after the Contract period out of:

- a. any negligence or wrongful act or omission by M/s L-1 Identity Solutions Operating Company or the team of M/s L-1 Identity Solutions Operating Company or any third party associated with M/S L-1 Identity Solutions Operating Company in connection with or incidental to this contract or
- b. any breach of any of the terms of the bid of M/S L-1 Identity Solutions Operating Company as agreed, the Bid and this Contract by M/S L-1 identity Solutions Operating Company,, the team of M/s L-1. Identity Solutions Operating Company or any third party.

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- c. any infringement of patent, trademark/
copyright or industrial design rights
arising from the of the supplied goods
and related services or any part
thereof.

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**STANDING COMMITTEE ON FINANCE
(2011-12)**

FIFTEENTH LOK SABHA

Ministry of Planning

**THE NATIONAL IDENTIFICATION AUTHORITY OF INDIA
BILL, 2010**

FORTY-SECOND REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2011/ Agrahyana, 1933 (Saka)

124-

FORTY-SECOND REPORT
STANDING COMMITTEE ON FINANCE
(2011-2012)

(FIFTEENTH LOK SABHA)

Ministry of Planning

**THE NATIONAL IDENTIFICATION AUTHORITY OF
INDIA BILL, 2010**

Presented to Lok Sabha on 13 December, 2011

Laid in Rajya Sabha on 13 December, 2011



LOK SABHA SECRETARIAT
NEW DELHI

December, 2011/ Agrahyana, 1933 (Saka)

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COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2011-2012

Shri Yashwant Sinha - Chairman

MEMBERS

LOK SABHA

2. Shri Shivkumar Udasi Chanabasappa
3. Shri Jayant Chaudhary
4. Shri Harishchandra Deoram Chavan
5. Shri Bhakta Charan Das
6. Shri Gurudas Dasgupta
7. Shri Nishikant Dubey
8. Shri Chandrakant Khaire
9. Shri Bhartruhari Mahtab
10. Shri Anjan Kumar Yadav M.
11. Shri Prem Das Rai
12. Dr. Kavuru Sambasiva Rao
13. Shri Rayapati S. Rao
14. Shri Magunta Sreenivasulu Reddy
15. Shri Sarvey Sathyanarayana
16. Shri G.M. Siddeswara
17. Shri N. Dharam Singh
18. Shri Yashvir Singh
19. Shri Manicka Tagore
20. Shri R. Thamaraiselvan
21. Dr. M. Thambidurai

RAJYA SABHA

22. Shri S.S. Ahluwalia
23. Shri Raashid Alvi
24. Shri Vijay Jawaharlal Darda
25. Shri Piyush Goyal
26. Shri Moinul Hassan
27. Shri Satish Chandra Misra
28. Shri Mahendra Mohan
29. Dr. Mahendra Prasad
30. Dr. K.V.P. Ramachandra Rao
31. Shri Yogendra P. Trivedi

SECRETARIAT

- | | | |
|---------------------------------|---|------------------|
| 1. Shri A.K. Singh | - | Joint Secretary |
| 2. Shri R.K. Jain | - | Director |
| 3. Shri Ramkumar Suryanarayanan | - | Deputy Secretary |

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INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Forty-Second Report on "The National Identification Authority of India Bill, 2010".

2. The National Identification Authority of India Bill, 2010 introduced in Rajya Sabha on 3 December, 2010 was referred to the Committee on 10 December, 2010 for examination and report thereon, by the Speaker, Lok Sabha under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained background note, detailed note and written information on various provisions contained in the aforesaid Bill from the Ministry of Planning.

4. Written suggestions / views / memoranda on the provisions of the Bill were received from various institutions / experts / individuals.

5. The Committee took briefing / oral evidence of the representatives of the Ministry of Planning and the Unique Identification Authority of India (UIDAI) at their sitting held on 11 February, 2011.

6. At the sitting held on 29 June, 2011, the Committee heard the views of the representatives of (i) the National Human Rights Commission (NHRC), and (ii) the Indian Banks Association (IBA), and Dr. Reetika Khera, Visitor, Delhi School of Economics, New Delhi. The Committee also heard the views of the representatives of the Confederation of Indian Industry (CII), and experts namely, Dr. Usha Ramanathan, Independent Law Researcher, New Delhi, Dr. R. Ramakumar, Associate Professor, the Tata Institute of Social Sciences, Mumbai and Shri Gopal Krishna, Member, Citizen Forum for Liberties, New Delhi at the sitting held on 29 July, 2011.

7. The Committee, at their sitting held on 8 December, 2011 considered and adopted this Report.

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8. The Committee wish to express their thanks to the officials of the Ministry of Planning and the Unique Identification Authority of India (UIDAI) for furnishing the requisite material and information which were desired in connection with the examination of the Bill. The Committee would also thank all the institutions and experts for their valuable suggestions on the Bill.

9. For facility of reference, the observations/recommendations of the Committee have been printed in thick type in the body of the Report.

New Delhi;
9 December, 2011
20 Aghrayana, 1933(Saka)

YASHWANT SINHA,
Chairman,
Standing Committee on Finance

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REPORT

PART - I

A. Introduction

1. With a view to ensure that the benefits of centrally sponsored schemes reaches to right person and not misused, the Central Government had decided to issue unique identification numbers to all residents in India and to certain other persons. The scheme of unique identification involves collection of demographic and biometric information from individuals for the purpose of issuing of unique identification numbers to such individuals. The Central Government, for the purpose of issuing unique identification numbers, constituted the Unique Identification Authority of India (UIDAI) on 28th January, 2009, being executive in nature, which is at present functioning under the Planning Commission.
2. It has been observed and assessed by the Government that the issue of unique identification numbers may involve certain issues, such as (a) security and confidentiality of information, imposition of obligation of disclosure of information so collected in certain cases, (b) impersonation by certain individuals at the time of enrolment for issue of unique identification numbers, (c) unauthorised access to the Central Identities Data Repository (CIDR), (d) manipulation of biometric information, (e) investigation of certain acts constituting offence, and (f) unauthorised disclosure of the information collected for the purpose of issue of unique identification numbers, which should be addressed by law and attract penalties.
3. In view of the foregoing paragraph, the Government has felt it necessary to make the said Authority as a statutory authority for carrying out the functions of issuing unique identification numbers to the residents in India and to certain other persons in an effective manner. It is, therefore, proposed to enact the National Identification Authority of India Bill, 2010 to provide for the establishment of the National Identification Authority of India (NIDAI) for the purpose of issuing identification numbers (which has been referred to as aadhaar number) to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access

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to benefits and services to which they are entitled and for matters connected therewith or incidental thereto.

B. Objectives and Salient Features of the Bill

4. The National Identification Authority of India Bill, 2010, introduced in Rajya Sabha on 3rd December, 2010, *inter alia*, seeks to provide—

(a) for issue of aadhaar numbers to every resident by the Authority on providing his demographic and biometric information to it in such manner as may be specified by regulations;

(b) for authentication of the aadhaar number of an aadhaar number holder in relation to his demographic and biometric information subject to such conditions and on payment of such fees as may be specified by regulations;

(c) for establishment of the National Identification Authority of India consisting of a Chairperson and two part-time Members;

(d) that the Authority to exercise powers and discharge functions which, *inter alia*, include—

(i) specifying the demographic and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof;

(ii) collecting demographic and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations;

(iii) maintaining and updating the information of individuals in the CIDR in such manner as may be specified by regulations;

(iv) specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations;

(e) that the Authority shall not require any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health;

(f) that the Authority may engage one or more entities to establish and maintain the CIDR and to perform any other functions as may be specified by regulations;

(g) for constitution of the Identity Review Committee consisting of three members (one of whom shall be the chairperson) to ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report annually in relation to the extent and pattern of usage

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of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government;

(h) that the Authority shall take measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the CIDR) is secured and protected against any loss or unauthorized access or use or unauthorized disclosure thereof; and

(i) for offences and penalties for contravention of the provisions of the proposed legislation.

C. Evolution of the UIDAI

5. The concept of a Unique Identification (UID) scheme was first discussed and worked upon since 2006 when administrative approval for the scheme "Unique ID for BPL families" was given on 3rd March, 2006 by the Department of Information Technology, Ministry of Communications and Information Technology.

6. Subsequently, a Processes Committee was set up on 3rd July, 2006 to suggest processes for updation, modification, addition and deletion of data fields from the core database to be created under the said project. The Committee appreciated the need of a UID Authority to be created by an executive order under the aegis of the Planning Commission to ensure a pan-departmental and neutral identity for the Authority.

7. Thereafter, since the Registrar General of India was engaged in the creation of the National Population Register (NPR) and issuance of Multi-purpose National Identity Cards to citizens of India, it was decided with the approval of the Prime Minister, to constitute an Empowered Group of Ministers (EGoM) to collate the two schemes – the NPR under the Citizenship Act, 1955 and the UID scheme. The EGoM was also empowered to look into the methodology and specific milestones for early and effective completion of the scheme and take a final view on these. The EGoM was constituted on 4th December, 2006 and a series of meetings took place as follows:-

a) First meeting of EGoM: 22nd November, 2007 :

- Recognized the need for creating an identity related resident database regardless of whether the database is created based on a

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de-novo collection of individual data or is based on already existing data such as the voter list.

- Need to identify and establish institutional mechanism that will own the database and be responsible for its maintenance.

b) Second meeting of EGoM: 28th January, 2008

- The proposal to establish UID Authority under the Planning Commission was approved.

c) Third meeting of EGoM: 7th August, 2008

- Referred certain matters raised with relation to the UIDAI to a Committee of Secretaries for examination.

d) Fourth meeting of EGoM: 4th November, 2008

- It was decided to notify UIDAI as an executive authority. Decision on investing it with statutory authority would be taken up later.
- UIDAI would be anchored in the Planning Commission for five years after which a view would be taken as to where the UIDAI would be located within Government.

8. The UIDAI was constituted on 28th January, 2009 under the Chairmanship of Shri Nandan M. Nilekani as an attached office under the aegis of the Planning Commission. The UIDAI was *inter-aila* given the responsibility to lay down plan and policies to implement the UID scheme, own and operate the UID database and be responsible for its updation and maintenance on an ongoing basis. The Prime Minister's Council of UIDAI and a Cabinet Committee on UIDAI (called CC-UIDAI) were set up on 30th July, 2009 and 22nd October, 2009 respectively for achieving the objectives of the Authority.

9. Asked why the matter of conferring statutory status to the UIDAI was deferred, the Ministry of Planning have submitted their written response as under:-

"Based on the proposal that formation of the UIDAI under the Planning Commission would ensure better coordination with different departments, it was decided that initially the UIDAI may be notified as an executive authority under the Planning Commission and the issue of investing the UIDAI with statutory authority and the reconciliation of such statutory role with National Registration Authority (NRA) can be considered at an appropriate time".

10. Justifying the extension of the UID scheme, which is initially intended for BPL families, to all residents and other categories of individuals, the Ministry of Planning in their written response have submitted as under:-

"The UID scheme was extended to all residents and other categories of individuals to gradually do away the *de novo* exercises each time for field level data collection. Simultaneously, it would also ensure that links to more and more identity based databases are created by inclusion of the UID number in their databases".

11. In this regard, Dr. R. Ramakumar, Expert, in his post-evidence reply has, among other things, added as follows:-

".....it has been proven again and again that in the Indian environment, the failure to enroll with fingerprints is as high as 15% due to the prevalence of a huge population dependent on manual labour. These are essentially the poor and marginalised sections of the society. So, while the poor do indeed need identity proofs, aadhaar is not the right way to do that...."

12. The Ministry in their written reply have stated, among other things, that :-

"While there may be a number of factors contributing to the failure to enroll (like geography, age groups, occupation etc.) and the figures quoted..... may not hold good in all situations, failure to enroll is a reality.... For enrolment purpose, UIDAI has already built in processes to handle biometric exceptions."

D. Issuance of aadhaar numbers pending passing the Bill by Parliament

13. Justice Dr. M. Rama Jois, MP (Rajya Sabha) in his representation addressed to the Chairman, Standing Committee on Finance has *inter-alia* pointed out since the NIDAI Bill is pending for consideration before the Standing Committee on Finance, implementation of the provisions of the Bill, issue of aadhaar numbers and incurring expenditure from the exchequer by the Government is a clear circumvention of Parliament, and therefore, should be kept in abeyance awaiting debate in and decision of both Houses of Parliament.

14. On being asked about the legal basis under which the UIDAI is functioning at present, and the mechanism that the UIDAI has adopted, since its inception, to deal with any of the issues like security and confidentiality of

information and other offences related to issue of the aadhaar numbers, the Ministry of Planning in a written reply have *inter-alia* stated that:-

"....The matter about commencement of operation of the UIDAI before a legal framework was put in place was referred to the Ministry of Law & Justice wherein opinion was sought on the issue whether in absence of a specific enabling law, would there be any constraints in collecting the data (including biometrics) and in issuing the UID numbers to residents in accordance with the mandate given to the Authority. The Ministry of Law & Justice, after examining the matter, had mentioned that it is a settled position that powers of the Executive are co-extensive with the legislative power of the Government and that the Government is not debarred from exercising its executive power in the areas which are not regulated by specific legislation. It had also been opined that till the time such legislation is framed the Authority can continue to function under the executive order issued by the Government and the scheme that may be prepared by the UIDAI. It was also opined that the Authority can collect information/data for implementation of the UID scheme. Such implementation can be done by giving wide publicity to the scheme and persuading the agencies/individual to part with necessary information.

The UIDAI has not faced issues such as breach of security and confidentiality, manipulation of biometrics, unauthorized access to the CIDR or other related offences since its inception.....till the time Parliament passes the Bill, these matters will be covered by the relevant laws".

15. The opinion of the Attorney-General of India on the above mentioned issues as obtained by the Ministry of Law & Justice (Department of Legal Affairs) is furnished below:-

"The competence of the Executive is not limited to take steps to implement the law proposed to be passed by Parliament. Executive Power operates independently. The Executive is not implementing the provisions of the Bill. The Authority presently functioning under the Executive Notification dated 28th January, 2009 is doing so under valid authority and there is nothing in law or otherwise which prevents the Authority from functioning under the Executive Authorisation.

The power of Executive is clear and there is no question of circumventing Parliament or the Executive becoming a substitute of Parliament. On the contrary, what is sought to be done is to achieve a seamless transition of the authority from an Executive Authority into a statutory authority.

All the expenditure which is being incurred is sanctioned by Parliament in accordance with the financial procedure set forth in the Constitution. If the Bill is not passed by any reason and if Parliament is of the view that

the Authority should not function and express its will to that effect, the exercise would have to be discontinued. This contingency does not arise.

The present Bill being implemented without Parliaments' approval does not set a bad precedent in the Parliamentary form of Government. On the contrary, the fact that the Authority is sought to be converted from an Executive Authority to a statutory authority, it underlines the supremacy of Parliament".

16. On this issue, Dr. Usha Ramanathan, Expert, in her post-evidence reply has *inter-alia* stated that:-

"Article 73 of the Constitution delineates the extent of executive power of the Union and describes it as extending to matters with respect to which Parliament has power to make laws.....

While the executive power of the Union, and of the States, is co-extensive with the legislative power of the Union and the States, this is a provision that sets out the limits of the power. These are not provisions that are meant to make Parliament, or the legislatures, redundant. While executive power cannot extend beyond the legislative power of the Union and the States, Parliament and the legislatures can, and routinely do, set out the terms on which the executive is to function. This is also how 'delegated legislation' or 'subordinate legislation' has to be within the extent of the 'parent statute'.....

It is a plain misconception to think that the executive can do what it pleases, including in relation to infringing constitutional rights and protections for the reason that Parliament and legislatures have the power to make law on the subject".

E. UID scheme

17. A resident who seeks to obtain an aadhaar number shall provide his / her demographic and biometric information to enrolling agencies appointed by Registrars. A resident who does not possess any documentary proof of identity or proof of address can obtain an aadhaar number by being introduced by an introducer.

18. The UIDAI has executed Memoranda of Understanding (MoU) with the partners including all the States and Union Territories, 25 financial institutions (including LIC) to act as Registrars for implementing the scheme. The roles and responsibilities of the partners flow from the MoU.

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19. The UIDAI requires only basic identity data such as name, age, gender, address and relationship details in case of minors, for issue of unique identity number. This is commonly known as 'Know your Resident (KYR)'. The partner registrars are using this resident interface as an opportunity to update their own selected data bases such as ration card number, MGNREGS job card number, PAN card etc. This is commonly known as 'Know your Resident Plus' (KYR+). Collection of these information is purely an initiative of respective Registrars and not mandatory for issue of aadhaar number.

20. The UIDAI is collecting bare minimum demographic information from the residents; any other kind of information, viz., rural, semi-urban and urban areas, persons with disabilities, migrant unskilled and unorganized workers, nomadic tribes and others who do not have any permanent dwelling house, is not available with UIDAI. Asked how the coverage of marginalized sections of population, without having the data of aadhaar numbers issued to them, could be achieved, the Ministry has submitted that the Authority proposes to cover the marginalized and poor sections of the population through special enrolment camps organized for them.

21. In a news item dated 6th September, 2011, it has been reported that the Ministry of Home Affairs have identified flaws in the enrolment process followed by the UIDAI, citing cases where people have got aadhaar numbers on the basis of false affidavits.

22. Further, an expert has brought to the notice of the Standing Committee on Finance that issues of liability and responsibility for maintaining accuracy of data on the Register, conducting identity checks and ensuring the integrity of the overall operation of the UID scheme have not been resolved. On being asked to comment on this, the Ministry of Planning have submitted a written reply as follows:-

".....Registrars have to put processes in place to ensure that the data collected is accurate. It is also the responsibility of the Registrars to appoint verifiers (for verifying the documents presented by the resident) and introducers to handle cases where the residents do not have any documents".

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23. It has been reported in a news item that the Ministry of Home Affairs have alleged that some of the registrars have not adhered to the laid down procedures under UIDAI. It has also been noticed that the Government of Kerala vide G.O.(MS)No:16/2011/ITD dated 3rd June, 2011 has *inter-alia* stated that the MoU was signed between UIDAI and Government of Kerala for implementation of the UID project subject to condition that the clauses on the standards, protocol, criteria etc. in the MoU shall be in accordance with the State IT policy.

F. Global Experience

24. It has been brought to the notice of the Standing Committee on Finance that on the basis of the findings of London School of Economics (LSE) report, the Government of United Kingdom has abandoned its ID project (repealed its Identity Cards Act, 2006) citing a range of reasons, which includes high cost, unsafe, untested and unreliable technology, and the changing relationship between the state and the citizen etc.

To a specific issue of relevance of any of the above mentioned factors in the Indian context, it has been informed by the Ministry as follows:-

"There are significant differences between the UK's ID card project and the UID project and to equate the two would not be appropriate. The differences are as follows:-

a) The UK system involved issuing a card which stored the information of the individual including their biometrics on the card. UID scheme involves issuing a number. No card containing the biometric information is being issued. UK already has the National insurance number which is used often as a means to verify the identity of the individual.

b) The statutory framework envisaged made it mandatory to have the UK ID card. Aadhaar number is not mandatory.

c) The data fields were large and required the individual to provide accurate information of all other ID numbers such as driver's license, national insurance number and other such details thereby linking the UK ID card database to all other databases on which the individual was registered. UID Scheme collects limited information and the database is not linked to other databases.

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d) In UK, the legislative framework and structure approached it from a security perspective. The context and need in India is different. The UID scheme is envisaged as a mean to enhance the delivery of welfare benefits and services”.

25. When asked as to whether any analysis has been carried out on the experience of countries where National IDs are in use as well as countries where it has been discontinued, the Ministry have *inter-alia* informed the Committee in a written reply as follows:-

“In some countries the use of smart cards to store significant data about the resident added to concerns about ID fraud and duplication.....

The comparisons between developed countries, which are looking at additional ID forms from a security perspective, versus India, a developing country which, like Brazil and Mexico, is attempting to, build the basic identity and verification infrastructure essential to delivering welfare benefits, and promoting inclusive growth, is not a reasonable one”.

G. Existing identity forms vs need for aadhaar number

26. A view has been expressed that adding another form of identity (i.e. aadhaar number) without studying the possibility of using the existing forms of identity, for example, Voter ID card, to solve the current problems appears to be a waste of resources.

27. The Ministry of Planning in a written submission have *inter-alia* stated the following:-

“.....in the current framework there is no single document which is uniformly acceptable as proof of identity across India – irrespective of age, gender and familial connections. Establishing identity is a challenge for the poor, particularly when they move from place to place as a consequence lack of proof of identity makes it difficult for the poor to access benefits and services.

.....Aadhaar number is an enabler..... The benefits of aadhaar number are:-

“For residents: The aadhaar number will become the single source of identity verification. Once residents enroll, they can use the number multiple times – they would be spared the hassle of repeatedly providing supporting identity documents each time they wish to access services such as obtaining a bank account, passport, driving license, and so on.... the number will also give migrants mobility of identity.

For Registrars and enrollers: The UIDAI will only enroll residents after de-duplicating records. This will help Registrars clean out duplicates from their databases, enabling significant efficiencies and cost savings. For Registrars focused on cost, the UIDAI's verification processes will ensure lower Know Your Resident (KYR) costs. For Registrars focused on social goals, a reliable identification number will enable them to broaden their reach into groups that till now, have been difficult to authenticate. The strong authentication that the aadhaar number offers will improve services, leading to better resident satisfaction.

For Governments: Eliminating duplication under various schemes is expected to save the Government exchequer a substantial amount. It will also provide Governments with accurate data on residents, enable direct benefit programs, and allow Government departments to coordinate investments and share information".

28. The Ministry have further added that:

"....reason for starting the project is not for overriding existing Ids.....All the above documents are relevant to a domain and for a service. Aadhaar number is to be used as a general proof of identity and proof of address".

H. Identity and Eligibility

29. According to a news item dated 7th July, 2011, the operationalisation of aadhaar, the unique identification number, will make it possible to link entitlements to targeted beneficiaries. But it will not ensure beneficiaries have been correctly identified. Thus, the old problem of proper identification that bedevils the present system will continue.

30. It has also been brought to the notice of the Standing Committee on Finance that a key issue in targeted welfare schemes is said to be of eligibility and not identity. Government entitlements are unavailable to the poor, primarily due to the eligibility determination process having many loopholes and lacunae. One identity like aadhaar number has nothing to do with such entitlements.

31. Asked to furnish comments, the Ministry of Planning in a written reply have stated that-

"....With aadhaar number integration in various Government schemes, the identity of the beneficiary gets established, by which it is ensured that the government scheme benefits reach the intended beneficiaries. Availability of identity and eligibility information together provides an important tool to plug the loopholes in the eligibility determination process, and in managing the eligibility life cycle for a beneficiary".

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32. Dr. Reetika Khera, Expert, while deposing before the Committee has *inter-alia* stated as follows:-

".....exclusion is more on account of poor coverage of these schemes. Say, for instance, in the Public Distribution System, the Planning Commission says that only 'x' per cent of the rural population will get the BPL cards and because of that cap that is set at the Central level, we find that lots of people are excluded".

I. Aadhaar Number and National Population Register (NPR)

33. The Standing Committee on Finance, during briefing on the Bill held on 11th February, 2011, raised *inter-alia* the issue of possibility of dovetailing the UID exercise with the census operation. In this regard, the Ministry of Planning in their written reply have, among other things, stated as follows:-

"....the UIDAI is adopting a multiple registrar approach and the Registrar General of India (RGI) will be one of the Registrars of the UIDAI. To synergize the two exercises, an Inter Ministerial Coordination Committee has been set up to minimize duplication. The UIDAI is making all efforts to synergize with National Population Register (NPR) exercise....".

34. According to a news item dated 6th September, 2011, the Ministry of Home Affairs said that it would not be preferable to rely entirely on private sector players' for biometric enrolments into the NPR since the population register will form the basis on which citizenship would be determined in the future. Unlike the UIDAI system, the NPR system follows an elaborate procedure to verify and cover the entire population of every area; and the data collected is subjected to 'social vetting'; and accountability can be fixed under the NPR system.

35. In an another news article it has been reported that while registration to the NPR is compulsory and a National Identity Number is linked to each name, the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 does not approve of linking biometrics with personal information. However, according to, the annual reports of the Ministry of Home Affairs, it said that integration of photographs and finger biometrics of 17.2 lakh out of 20.6 lakh records has been completed.

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J. Coordination between the agencies involved in the UID scheme

36. In a detailed note on the NIDAI Bill, the Ministry of Planning have *inter-alia* submitted that:-

"Implementation of a project of this size is challenging. It involves co-ordination with multiple stakeholders and effective monitoring of implementation at every level....".

37. The Ministry of Finance (Department of Expenditure), however, while commenting on embedding aadhaar numbers in databases to enable interaction have stated that:-

"It must be done urgently by single agency, perhaps NPR. Cabinet has approved (22.7.2010) outlay of Rs. 3,023.01 crore *inter-alia* for assistance for Information Communication Technology (ICT) infrastructure of Rs. 450 crore for integrating/ synergizing Aadhaar numbers with existing databases. Concerned about lack of co-ordination leading to duplication effort and expenditure with at least 6 agencies collecting information (NPR, MNREGA, BPL Census, UID, RSBY and Bank Smart Cards)".

38. It has been reported in a news item dated 3rd October, 2011 that the UID project has become focus of the ire of various arms of the government for rather disparate reasons. Asked to furnish the comments on the said news item, the Ministry of Planning have submitted a written reply as follows:-

Views reported in the news item	Comments of the Ministry of Planning
....the Finance Ministry rejected UIDAI's request for Rs.14,000 crore expenditure programme.	It is not correct that the Finance Ministry have rejected the budget expenditure. The proposal for phase III has been recommended by the EFC on 15 September, 2011 after optimizing the cost estimates with certain stipulations to be complied with by the UIDAI to achieve economy of scales, avoid duplication and avail convergence in the programme.
...the planning commission too jumped into the fray, suddenly awakening to the deficiency in the structure and functioning of the Authority.	Aadhaar programme is a complex project of its kind launched first time in the country. EFC is an Inter-Ministerial forum to appraise the proposal rigorously to facilitate decision making by the Competent Authority. Planning Commission is one of the nodal appraising agencies to the EFC forum. On approval by

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	<p>Planning Commission some issues regarding design parameters, cost estimates and manner of implementation were emerged, which could not be visualized at project formulation stage. These issues have been deliberated in the EFC meeting and resolved through certain stipulations to be adhered to by UIDAI during execution of the project.</p>
<p>Adding to the confusion were the apparently negative comments made by the Ministry of Home Affairs(MHA) on the flaws in the enrolment process and the security of the biometric data. The Home Ministry's apparently nervous of the UIDAI's efforts to extend its aadhaar enrolment mandate, as the office of the Registrar General of India, an arm of the Ministry, is simultaneously compiling a National Population Register (NPR) which is a comprehensive identity database, as a part of the 2011 census operations currently under way.</p>	<p>While responding to the EFC memo of the UIDAI, the RGI (MHA) have observed as follows:- A security audit of the entire process of UIDAI including enrolment process in UIDAI, the enrolment software, data storage, data management, etc. should be conducted by an appropriate agency.</p> <p>The Comments of the UIDAI on this are:- UIDAI is developing a monitoring and evaluation framework to provide a comprehensive mechanism for continuously monitoring and evaluating the UIDAI program. Considering that a formal structured monitoring and evaluation framework will form the cornerstone for measuring the outcome of UIDAI programme, a distinct component 'Monitoring and evaluation' has been included in the current EFC proposal. Some of the audits planned on a periodic basis are:- (i) Enrolment Client Audit; (ii) Enrolment Process (Field) Audits; (iii) ASDMSA Application Audits; (iv) Authentication User Agency Audits; (v) Data Center Audits; (vi) Security Audits; (vii) Impact Assessment (Grants in Aid for Research); and (viii) Other Third Party Audit Services.</p>
<p>The confusion about the turf of UIDAI and the MHA is rather surprising,</p>	<p>UIDAI has no comments to offer.</p>

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<p>given the fact that an EGoM was constituted as early as 2006 to collate the two schemes, namely the NPR and the unique identification number, as aadhaar was then known.</p>	
<p>RBI made the waters murkier by first going against the Finance Ministry notification that was issued in 2010 to permit the use of Know Your Customer (KYC) norms- by limiting the use of aadhaar numbers to "small accounts". It then retracted, by allowing use of aadhaar numbers to all bank accounts without any limitations, but only after again insisting that the banks must satisfy themselves about the current address of the customer. RBI's reluctance to fully accept the aadhaar numbers for the KYC norms is surprising, given that more than a dozen leading banks in the country are partnering with UIDAI to deliver aadhaar numbers to the citizens, and also when the aadhaar number have been accepted by the insurance companies and SEBI for meeting KYC norms.</p>	<p>It is clarified that-</p> <p>(i) aadhaar is sufficient KYC for opening all bank accounts now. This includes no-frill accounts- as per Reserve Bank's circular dated January 27, 2011 – and any bank account as per September 28, 2011 circular.</p> <p>(ii) Banks may ask for additional proof of residence if the current residence is not the same as the address given on the aadhaar document. This procedure is consistent with bank policies applicable to all other officially valid documents including passport, driving license and is not specific to aadhaar.</p>

K. Civil Liberties Perspective

39. In a detailed note on the Bill, the Ministry of Planning have stated that issues like access and misuse of personal information, surveillance, profiling, prohibiting other data bases from storing aadhaar numbers; and securing confidentiality of information which is in the registrars domain need to be addressed in larger data protection legislation. In this connection, the Ministry have been asked to comment on the view that the Bill in its current form appears to be unsafe in law as there is no law at present on privacy, and data protection, therefore, it would be appropriate to consider the Bill for legislation only after passing the legislation on privacy, and data protection so as to ensure that there is no conflict between these laws. The Ministry in a written reply have *inter-alia* stated as under:-

"UIDAI has taken appropriate steps to ensure security and protection of data under this law and has incorporated data protection principles within its policy and implementation framework....."

Since appropriate steps have been taken, there is no dependency on the general data protection law.....when the data protection framework comes into place the Authority will follow the same since a national data protection law will apply to all agencies and institutions collecting information.

Collection of information without a privacy law in place does not violate the right to privacy of the individual....There is no bar on collecting information, the only requirement to be fulfilled with respect to the protection of the privacy of an individual is that care should be taken in collection and use of information, consent of individual would be relevant, information should be kept safe and confidential...

.....The proposed Privacy law should also seek to strike a balance between the legitimate demands of protecting individual liberties while recognizing the need for larger public interest to prevail in certain well defined circumstances".

40. Responding to a suggestion received from PRS Legislative Branch that the existence of a unique identifier may facilitate record linkages across separate databases, the Ministry in a written reply have submitted that issues of linking and matching of databases need to be addressed through a data protection legislation which is currently being considered by the Department of Personnel.

41. The National Human Rights Commission (NHRC), on being asked to comment on the implications of the provisions of the Bill on the individual's right to privacy, has *inter alia* informed the Committee in their post-evidence reply as follows:-

....the right of privacy presupposes that such information relating to an individual which he would not like to share with others will not be disclosed. It may be mentioned that the right of privacy is not an absolute right....."

42. On the same issue, Dr. Usha Ramanathan, expert, in her post-evidence reply has stated that:-

"....The right to dignity, the right to privacy, personal security and safety, the protection against surveillance, are constitutionally protected. The production of a number accompanied by the use of methods such as fingerprinting and iris scanning is even more invasive than is permitted to be applied to alleged offenders. Article 20 (3) provides protection against

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compulsory extraction of personal information. Denying services, and rights, to persons because they are unwilling to part with the information in a manner that is more than likely to result in convergence and commodification of their personal information, surveillance, profiling, tagging and tracking is compulsory extraction that clearly reduces the constitutional rights of an ordinary citizen to less than that of an alleged offender. And that this is being done without the protection of law renders the exercise, per se, illegal. Apart from its 'uses', the potential for abuse is undeniable. In a similar context, another court – the Philippines Supreme Court – said:the data may be gathered for gainful and useful government purposes; but the existence of this vast reservoir of personal information constitutes a covert invitation to misuse, a temptation that may be too great for some of our authorities to resist".

L. Financial Implications

(i) Feasibility Study

43. The Ministry of Planning in a detailed note on the Bill have stated that aadhaar number is cost-effective compared to other alternate targeted solutions to the problems identified in delivering services and benefits such as eliminating duplicate and fake identities. The Detailed Project Report (DPR) of the UID scheme has been prepared and submitted by M/s. Ernst & Young Pvt.Ltd. in April, 2011.

44. Asked whether any committee has been set up to study the financial implications of the UID scheme; and also to furnish the details of feasibility study carried out, if any, covering all aspects of the UID scheme such as setting up of the proposed NIDAI, and cost-benefit analysis, the Ministry in a written reply have, among other things, submitted that:-

"No committee has been set up to study the financial implications of the UID scheme. As per laid down guidelines/procedure the Expenditure Finance Committee (EFC) reviews project proposals and its financial implications wherein the views of all stakeholders/ministries are taken in to account...

.....deliberations were held with all relevant stakeholders including Planning Commission, Registrar General of India, Election Commission of India, Ministry of Rural Development, Ministry of Urban Development and State Governments. A Proof of Concept study was undertaken in the States of Gujarat, Karnataka, U.P. and Orissa in four rural and one urban locations to establish the feasibility of linking UID with partner-databases and to validate the possibility of one-time linkage which once

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established would be maintained on an ongoing basis by the UIDAI. An assessment study was carried out in 10 Central Ministries and their respective departments in four states (Karnataka, Uttar Pradesh, Gujarat and West Bengal".

(ii) Estimated cost of the UID scheme

45. The UID scheme is a Central Sector Scheme. The estimated cost of the Phase-I and Phase-II of the scheme spread over five years is Rs.3170.32 crore (Rs.147.31 crore for Phase-I and Rs.3023.01 crore for Phase-II). The estimated cost includes scheme components for issue of 10 crore UID numbers by March, 2011 and recurring establishment costs for the entire scheme up to March, 2014. The Budget for Phase-III of the scheme to the tune of Rs.8861 crore has been approved.

46. According to news items, the total cost of the UID scheme may run up to Rs. 1,50,000 crore. Even after the commitment of such levels of expenditures, the uncertainty over the technological options and ultimate viability of the scheme remains.

(iii) Comparative cost of aadhaar number and existing ID documents

47. Asked to furnish the details of comparative cost of existing ID documents (per individual), namely, Voter Id card, PAN card, driving license and aadhaar number, the Ministry has *inter-alia* informed the Committee in a written reply that the comparative costs of the documents mentioned above are not available.

(iv) Funding of other biometric projects

48. It is noticed that a project namely, Bharatiya - Automated Finger Print Identification System (AFSI), was launched in January, 2009, being funded by the Department of Information Technology, Ministry of Communications and Information Technology, for collection of biometric information of the people of the country.

49. Asked to clarify as to whether the biometric information (finger prints) being collected under the Bharatiya – AFSI project could also be used by the UIDAI, the Ministry have submitted that-

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"The biometrics required for the aadhaar project are iris, ten finger prints and photograph. To ensure uniqueness of the individual, it is essential that the biometrics captured are as per the specifications laid down by the Biometrics Standards Committee. The quality, nature and manner of collection of biometric data by other biometric projects may not be of the nature that can be used for the purpose of the aadhaar scheme and hence it may not be possible to use the fingerprints captured under the Bhartiya-AFSI project".

(v) Revenue model of the UIDAI

50. According to a detailed note on the bill furnished by the Ministry of Planning, demographic data and address verification will be provided free of cost till a separate pricing policy is announced in due course.

51. However, in a news item dated 6th September, 2011, it has been reported that the Ministry of Home Affairs pointed out uncertainties in the UIDAI's revenue model.

M. Technology

52. The Biometrics Standards Committee set up by the UIDAI has recognized in its report that a fingerprints-based biometric system shall be at the core of the UIDAI's de-duplication efforts. It has further noted that it is:

"...conscious of the fact that de-duplication of the magnitude required by the UIDAI has never been implemented in the world. In the global context, a de-duplication accuracy of 99% has been achieved so far, using good quality fingerprints against a database of up to fifty million. Two factors however, raise uncertainty about the accuracy that can be achieved through fingerprints. First, retaining efficacy while scaling the database size from fifty million to a billion has not been adequately analyzed. Second, fingerprint quality, the most important variable for determining de-duplication accuracy, has not been studied in depth in the Indian context".

53. Asked to explain the reliability of technical architecture of the UID scheme, the Ministry of Planning in a detailed note on the NIDAI Bill have, among other things, stated as follows:-

"The UID project is a complex technology project. Nowhere in the world has such a large biometric database of a billion people being maintained. The frontiers of technology in biometrics are being tested and used in the project.....

The technical architecture of the UID scheme is at this point, is based on high-level assumptions. The architecture has been structured to

ensure clear data verification, authentication and de-duplication, while ensuring a high level of privacy and information security.....

The project team is learning and adapting to the challenges and ensuring that the solutions that are being offered are the best in the world to achieve the task....".

54. Further asked as to given the high degree of assumptions on the reliability of technology adopted by the UIDAI and probability of system failures of different degrees, whether incurring huge costs on the UID scheme is prudent and affordable, the Ministry have stated in a written reply, among other things, as follows:-

".....UIDAI is cognizant of the fact that biometric matching (which is a patterns matching) by its very nature will suffer from inaccuracy. However, these inaccuracy levels are less than 1%. This cannot be a reason for not attempting to use the technology.

It is well acknowledged that there will be failures in authentication for various reasons. After Proof of Concept studies on authentication, appropriate policies and processes will be developed to take care of situations where failure occurs for various reasons.....The choice of using the authentication services is left to the third party service provider.....Concerned agencies will have to develop policies and procedures to handle such exceptional situations....."

55. In a news article, one of the representatives of the UIDAI has admitted that the quality of fingerprints is bad because of the rough exterior of fingers caused by hardwork, and this poses a challenge for later authentication.

N. National Security vs the UID scheme

(i) Illegal residents

56. A concern over the possibility of illegal residents getting aadhaar numbers, and the safeguards in this regard has been raised by the Standing Committee on Finance during the sitting held on 11 February, 2011. In a written reply, the Ministry of Planning have stated as under:-

"Aadhaar number is not a proof of citizenship or domicile [Clause 6 of the Bill]. It only confirms identity and that too subject to authentication [Clause 4(3)]. This is clearly mandated in the NIDAI Bill and the communication being sent to the resident.

It is the responsibility of the Registrars to enroll a resident after due verification as per the procedure laid down by the UIDAI. If a person is not a resident as per the Bill, the Authority is being vested with the power

to omit/deactivate the aadhaar number [Clause 23 (2) (g)]. Subsequent attempts to enter the system can be detected".

(ii) Involvement of Private agencies

57. On the issue of security of proposed data of UIDAI, an unstarred question (no.2989) was raised in Rajya Sabha. The Minister of State in the Ministry of Planning and Minister of State in the Ministry of Parliamentary Affairs tabled the answer to the above said question in Rajya Sabha on 22 April, 2010 as follows:-

"National Informatics Centre (NIC) had pointed out that the issues relating to privacy and security of UID data, in case the data is not hosted in a Government data centre may be taken into consideration.

UIDAI is of the opinion that the hosting of data in a private data centre does not necessarily lead to a violation of privacy or security. Appropriate contractual arrangement shall be put in place with the data centre space provider to ensure security and privacy of the data.

At present, UIDAI does not have its own permanent facility to house its data centre. Therefore, 75 sq.ft of data centre space has been hired from M/s. ITI Ltd. for proof of concept and pilot on a rental basis".

58. The Ministry of Home Affairs, according to a news item, have questioned the security of citizens' biometric data in UIDAI's 'outsourced service oriented infrastructure' model.

59. To a specific query as to could outside agencies be allowed to partake in the UID scheme when doubts have been expressed on possible compromise with the interests of the national security, the Ministry of Planning in a written reply have *inter alia* stated that:-

"....the UIDAI has followed government procurement process and engaged the appropriate agencies for the implementation of the UID scheme....The UIDAI has also implemented a comprehensive information security policy....."

60. It is, however, reported in various news articles as late as dated 26th November, 2011 that controversies between the Ministry of Home Affairs and the UIDAI over the issues such as manner and processes followed by the UIDAI, duplication of efforts between National Population Register and aadhaar, and security of data remain unresolved.

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PART – II

OBSERVATIONS / RECOMMENDATIONS

1. The Committee have carefully examined the written information furnished to them and heard the views for and against the National Identification Authority of India (NIDAI) Bill from various quarters such as the Ministry of Planning, the Unique Identification Authority of India (UIDAI), the National Human Rights Commission (NHRC) and experts. The clearance of the Ministry of Law & Justice for issuing aadhaar numbers, pending passing the Bill by Parliament, on the ground that powers of the Executive are co-extensive with the legislative power of the Government and that the Government is not debarred from exercising its Executive power in the areas which are not regulated by the legislation does not satisfy the Committee. The Committee are constrained to point out that in the instant case, since the law making is underway with the bill being pending, any executive action is as unethical and violative of Parliament's prerogatives as promulgation of an ordinance while one of the Houses of Parliament being in session.

2. The Committee are surprised that while the country is on one hand facing a serious problem of illegal immigrants and infiltration from across the borders, the National Identification Authority of India Bill, 2010 proposes to entitle every resident to obtain an aadhaar number, apart from entitling such other category of individuals as may be notified from time to time. This will, they apprehend, make even illegal immigrants entitled for an aadhaar number. The Committee are unable to understand the rationale of expanding the scheme to persons who are not citizens, as this entails numerous benefits proposed by the Government. The Committee have received a number of suggestions for restricting the scope of the UID scheme only to the citizens and for considering better options available with the Government by issuing Multi-Purpose National Identity Cards (MNICs) as a more acceptable alternative.

3. The Committee observe that *prima facie* the issue of unique identification number, which has been referred to as "aadhaar number" to individuals residing in India and other classes of individuals under the Unique Identification (UID) Scheme is riddled with serious lacunae and concern areas which have been identified as follows:-

- (a) The UID scheme has been conceptualized with no clarity of purpose and leaving many things to be sorted out during the course of its implementation; and is being implemented in a directionless way with a lot of confusion. The scheme which was initially meant for BPL families has been extended for all residents in India and to certain other persons. The Empowered Group of Ministers (EGoM), constituted for the purpose of collating the two schemes namely, the UID and National Population Register(NPR), and to look into the methodology and specifying target for effective completion of the UID scheme, failed to take concrete decision on important issues such as (a) identifying the focused purpose of the resident identity database; (b) methodology of collection of data; (c) removing the overlapping between the UID scheme and NPR; (d) conferring of statutory authority to the UIDAI since its inception; (e) structure and functioning of the UIDAI; (f) entrusting the collection of data and issue of unique identification number and national identification number to a single authority instead of the present UIDAI and its reconciliation with National Registration Authority;
- (b) The need for conferring of statutory authority to the UIDAI felt by the Government way back in November, 2008, but was deferred for more than two years for no reason. In this regard, the Ministry of Planning have informed the Committee that till the time Parliament passes the NIDAI Bill, crucial matters impinging

on security and confidentiality of information will be covered by the relevant laws. The Committee are at a loss to understand as to how the UIDAI, without statutory power, could address key issues concerning their basic functioning and initiate proceedings against the defaulters and penalize them;

- (c) The collection of biometric information and its linkage with personal information of individuals without amendment to the Citizenship Act, 1955 as well as the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003, appears to be beyond the scope of subordinate legislation, which needs to be examined in detail by Parliament;
- (d) Continuance of various existing forms of identity and the requirement of furnishing 'other documents' for proof of address, even after issue of aadhaar number, would render the claim made by the Ministry that aadhaar number is to be used as a general proof of identity and proof of address meaningless;
- (e) In addition to aadhaar numbers being issued by the UIDAI, the issuance of smart cards containing information of the individuals by the registrars is not only a duplication but also leads to ID fraud as prevalent in some countries; and
- (f) The full or near full coverage of marginalized sections for issuing aadhaar numbers could not be achieved mainly owing to two reasons viz. (i) the UIDAI doesn't have the statistical data relating to them; and (ii) estimated failure of biometrics is expected to be as high as 15% due to a large chunk of population being dependent on manual labour.

4. The Committee regret to observe that despite the presence of serious difference of opinion within the Government on the UID scheme as illustrated below, the scheme continues to be implemented in an

overbearing manner without regard to legalities and other social consequences:-

- (i) The Ministry of Finance (Department of Expenditure) have expressed concern that lack of coordination is leading to duplication of efforts and expenditure among at least six agencies collecting information (NPR, MGNREGS, BPL census, UIDAI, RSBY and Bank Smart Cards);
- (ii) The Ministry of Home Affairs are stated to have raised serious security concern over the efficacy of introducer system, involvement of private agencies in a large scale in the scheme which may become a threat to national security; uncertainties in the UIDAI's revenue model;
- (iii) The National Informatics Centre (NIC) have pointed out that the issues relating to privacy and security of UID data could be better handled by storing in a Government data centre;
- (iv) The Ministry of Planning have expressed reservation over the merits and functioning of the UIDAI; and the necessity of collection of Iris image;
- (v) Involvement of several nodal appraising agencies which may work at cross-purpose; and
- (vi) Several Government agencies are collecting biometric(s) information in the name of different schemes.

5. The Committee are also unhappy to observe that the UID scheme lacks clarity on many issues such as even the basic purpose of issuing "aadhaar" number. Although the scheme claims that obtaining aadhaar number is voluntary, an apprehension is found to have developed in the minds of people that in future, services / benefits including food entitlements would be denied in case they do not have aadhaar number.

It is also not clear as to whether possession of aadhaar number would be made mandatory in future for availing of benefits and services. Even if the aadhaar number links entitlements to targeted beneficiaries, it may not ensure that beneficiaries have been correctly identified. Thus, the present problem of proper identification would persist.

It is also not clear that the UID scheme would continue beyond the coverage of 200 million of the total population, the mandate given to the UIDAI. In case, the Government does not give further mandate, the whole exercise would become futile.

6. Though there are significant differences between the identity system of other countries and the UID scheme, yet there are lessons from the global experience to be learnt before proceeding with the implementation of the UID scheme, which the Ministry of Planning have ignored completely. For instance, the United Kingdom shelved its Identity Cards Project for a number of reasons, which included:- (a) huge cost involved and possible cost overruns; (b) too complex; (c) untested, unreliable and unsafe technology; (d) possibility of risk to the safety and security of citizens; and (e) requirement of high standard security measures, which would result in escalating the estimated operational costs. In this context, the Report of the London School of Economics' Report on UK's Identity Project *inter-alia* states that ".....identity systems may create a range of new and unforeseen problems.....the risk of failure in the current proposals is therefore magnified to the point where the scheme should be regarded as a potential danger to the public interest and to the legal rights of individuals". As these findings are very much relevant and applicable to the UID scheme, they should have been seriously considered,

7. The UID scheme facilitates the UIDAI and the registrars to create database of information of people of the country. Considering the huge database size and possibility of misuse of information, the Committee are

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of the view that enactment of national data protection law, which is at draft stage with the Ministry of Personnel, Public Grievances and Pensions, is a pre-requisite for any law that deals with large scale collection of information from individuals and its linkages across separate databases. In the absence of data protection legislation, it would be difficult to deal with the issues like access and misuse of personal information, surveillance, profiling, linking and matching of data bases and securing confidentiality of information etc.

8. The Committee note that the Ministry of Planning have admitted that (a) no committee has been constituted to study the financial implications of the UID scheme; and (b) comparative costs of the aadhaar number and various existing ID documents are also not available. The Committee also note that Detailed Project Report (DPR) of the UID Scheme has been done much later in April, 2011. The Committee thus strongly disapprove of the hasty manner in which the UID scheme has been approved. Unlike many other schemes / projects, no comprehensive feasibility study, which ought to have been done before approving such an expensive scheme, has been done involving all aspects of the UID scheme including cost-benefit analysis, comparative costs of aadhaar number and various forms of existing identity, financial implications and prevention of identity theft, for example, using hologram enabled ration card to eliminate fake and duplicate beneficiaries.

9. The Committee are afraid that the scheme may end up being dependent on private agencies, despite contractual agreement made by the UIDAI with several private vendors. As a result, the beneficiaries may be forced to pay over and above the charges to be prescribed by the UIDAI for availing of benefits and services, which are now available free of cost.

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10. The Committee find that the scheme is full of uncertainty in technology as the complex scheme is built up on untested, unreliable technology and several assumptions. Further, despite adverse observations by the UIDAI's Biometrics Standards Committee on error rates of biometrics, the UIDAI is collecting the biometric information. It is also not known as to whether the proof of concept studies and assessment studies undertaken by the UIDAI have explored the possibilities of maintaining accuracy to a large level of enrolment of 1.2 billion people. Therefore, considering the possible limitations in applications of technology available now or in the near future, the Committee would believe that it is unlikely that the proposed objectives of the UID scheme could be achieved.

11. The Committee feel that entrusting the responsibility of verification of information of individuals to the registrars to ensure that only genuine residents get enrolled into the system may have far reaching consequences for national security. Given the limitation of any mechanism such as a security audit by an appropriate agency that would be setup for verifying the information etc., it is not sure as to whether complete verification of information of all aadhaar number holders is practically feasible; and whether it would deliver the intended results without compromising national security. As the National Identity Cards to citizens of India are proposed to be issued on the basis of aadhaar numbers, the possibility of possession of aadhaar numbers by illegal residents through false affidavits / introducer system cannot be ruled out.

12. The Committee take note that the Ministry of Home Affairs have alleged that some of the registrars have not adhered to the laid down procedures under UIDAI which renders the Memoranda of Understanding (MoU) signed between the UIDAI and the registrars meaningless; and it compromises the security and confidentiality of information of aadhaar

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number holders. Even, according to the latest media reports, controversies between the Ministry of Home Affairs and the UIDAI over issues such as the manner and processes followed by the UIDAI, duplication of efforts between NPR and aadhaar, and security of data still remain unresolved.

13. In view of the afore-mentioned concerns and apprehensions about the UID scheme, particularly considering the contradictions and ambiguities within the Government on its implementation as well as implications, the Committee categorically convey their unacceptability of the National Identification Authority of India Bill, 2010 in its present form. The data already collected by the UIDAI may be transferred to the National Population Register (NPR), if the Government so chooses. The Committee would, thus, urge the Government to reconsider and review the UID scheme as also the proposals contained in the Bill in all its ramifications and bring forth a fresh legislation before Parliament.

New Delhi
11 December, 2011
20 Agrahayana, 1933 (Saka)

YASHWANT SINHA
Chairman,
Standing Committee on Finance

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NOTE OF DISSENT

Appendix I

Shri Raashid Alvi, MP

I do not agree with the paragraph "13" of the draft Report on "The National Identification Authority of India Bill, 2010".

I suggest to delete "this para".

Dated: 7 December, 2011

Sd/-
(RAASHID ALVI)

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NOTE OF DISSENT

Prem Das Rai, MP

The National Identification Authority of India Bill, 2010

At the outset I do not believe that the bill should be rejected in the manner it has been. Since I have been inducted into the Committee recently I do not have the inputs that went in when the stakeholders and other Government departments were giving witness. I also do not know whether we gave enough time to the UID implementers to give evidence and present their point of view.

Hence, I would like to place on record that the issue of giving out Aadhaar numbers under the UID scheme, I believe, is one of the greatest import for social and economic inclusion in this country. I personally am privy to the kind of work that is needed at the grassroots as I was part of an organisation that did such work in the North East of India and other backward regions using some form of technology to bring in inclusion.

The linking of a person to a number and then being able to make give access to the right to that person is transformational. It is the next phase of transformation that technology can bring about in our own country. This has never been done anywhere in the world and we should be rightly proud of this.

I do agree there may be serious issues that need to be factored in which my esteemed colleagues have pointed out.

I recommend that the Bill may be discussed in Parliament bringing about some of the changes so desired and do not concur that the Bill be brought fresh.

Sd/-

Dated: 8 December, 2011

(PREM DAS RAI)

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NOTE OF DISSENT

Manicka Tagore, MP

I could not attend this meeting on adoption of the draft report on the National Identification Authority of India Bill, 2010 because a very important discussion on the price rise was going on in the Lok Sabha. The Govt. of India with a view to ensure that the benefits of centrally sponsored schemes reaches to right persons and not misused, they had decided to issue unique identification numbers to all residents in India and to certain other persons the basic idea was to identification of the persons. The Adhar programme has been launched first time in India. The UIDAI officials had taken all possible precautions to make the exercise safe and secure. Both demographic and biometric datas were collected and its method of collecting datas were approved by the Demofic Standard and Verification Procedure Committee.

It is surprising to know that the committee members have not yet recognized the value of UID. This system will cut down fraud and corruption in every area of administration.

I dissent the observation and recommendation of the Standing Committee on Finance regarding the Draft Report on the National Identification Authority of India Bill, 2010. I request the Chairman that the UID bill may kindly be considered by the Government with our views and not rejected.

Dated 10 December, 2011

Sd/-
(MANICKA TAGORE)

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Appendix II

**MINUTES OF THE THIRTEENTH SITTING OF THE STANDING COMMITTEE ON FINANCE
(2010-11)**

The Committee sat on Friday, the 11th February, 2011 from 1130 hrs to 1400 hrs.

PRESENT

Shri Yashwant Sinha – Chairman

MEMBERS

LOK SABHA

2. Shri Bhartruhari Mahtab
3. Smt. Jaya Prada Nahata
4. Shri Rayapati Sambasiva Rao
5. Dr. Kavuru Sambasiva Rao
6. Shri Manicka Tagore

RAJYA SABHA

7. Shri S.S. Ahluwalia
8. Shri Raashid Alvi
9. Shri Piyush Goyal
10. Shri Moinul Hassan

SECRETARIAT

- | | | |
|---------------------------------|---|---------------------|
| 1. Shri A. K. Singh | – | Joint Secretary |
| 2. Shri T. G. Chandrasekhar | – | Additional Director |
| 3. Shri Ramkumar Suryanarayanan | – | Deputy Secretary |
| 4. Smt. B. Visala | – | Deputy Secretary |

WITNESSES

Ministry of Planning

1. Ms. Sudha Pillai, Member-Secretary
2. Shri Pronab Sen, Pr. Adviser
3. Shri Chaman Kumar, Addl. Secretary & FA
4. Shri C. Muralikrishna Kumar, Sr. Adviser
5. Shri T.K. Pandey, Joint Secretary (Admn.).

Unique Identification Authority of India (UIDAI)

1. Shri Nandan Nilekani, Chairman
2. Shri R.S. Sharma, Director-General

2. The Committee took evidence of the representatives of the Ministry of Planning and Unique Identification Authority of India (UIDAI) in connection with the examination of the National Identification Authority of India Bill, 2010. Major issues discussed with the representatives included, need for providing statutory status to the Unique Identification Authority of India (UIDAI); Definition of 'Resident'; provision for de-activating the Aadhaar Number; collection of demographic information and biometric information; nature of enrolment and special measures for enrolment of weaker sections. The Chairman directed the representatives to furnish replies to the points raised during the sitting within one week.

The witnesses then withdrew.

A verbatim record of proceedings was kept.

The Committee then adjourned.

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MINUTES OF THE NINETEENTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2010-11)

The Committee sat on Wednesday, the 29th June, 2011 from 1130 hrs to 1400 hrs.

PRESENT

Shri Bhartruhari Mahtab – Acting Chairman

MEMBERS

LOK SABHA

2. Shri C.M. Chang
3. Shri Bhakta Charan Das
4. Shri Gurudas Dasgupta
5. Shri Nishikant Dubey
6. Shri Mangani Lal Mandal
7. Shri Magunta Sreenivasulu Reddy
8. Dr. Kavuru Sambasiva Rao
9. Shri Sarvey Sathyanarayana
10. Shri Dharam Singh

RAJYA SABHA

11. Shri S.S. Ahluwalia
12. Shri Raashid Alvi
13. Shri Moinul Hassan

SECRETARIAT

- | | | |
|------------------------------|---|---------------------|
| 1. Shri A. K. Singh | – | Joint Secretary |
| 2. Shri R.K. Jain | – | Director |
| 3. Shri T. G. Chandrasekhar | – | Additional Director |
| 4. Shri Kulmohan Singh Arora | – | Under Secretary |

Part I

(1130 hrs. to 1145 hrs.)

2. In the absence of the Chairman, the Committee chose Shri Bhartruhari Mahtab, M.P. to chair the sitting under Rule 258(3) of the Rules of Procedure.

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|----|----|----|----|-----|
| 3. | XX | XX | XX | XX. |
| | XX | XX | XX | XX. |

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Part II

(1145 hrs. to 1215 hrs.)

WITNESSES

National Human Rights Commission (NHRC)

1. Shri Rajiv Sharma - Secretary-General
2. Shri A.K. Garg - Registrar (Law)
3. Shri J.P. Meena - Joint Secretary (P&A)

4. The Committee heard the representatives of the National Human Rights Commission on "The National Identification Authority of India Bill, 2010". The major issues discussed during the sitting broadly related to nature, objective and beneficiaries of aadhaar number; possible discrimination and specific provisions that are required to be built in; safeguards needed for securing the stored information by the proposed National Identification Authority of India; implications of the provisions of the Bill on the individual's right to privacy; etc. The Chairman directed the representatives of the National Human Rights Commission to furnish replies to the points raised by the Members during the discussion within a week.

The witnesses then withdrew.

Part III

(1215 hrs. to 1300 hrs.)

WITNESSES

Indian Banks' Association (IBA)

1. Shri M.D. Mallya - Chairman
2. Dr. K. Ramakrishnan - Chief Executive
3. Shri M.R. Umarji - Chief Advisor-Legal

5. Subsequently, the Committee heard the representatives of the Indian Banks' Association (IBA) on "The National Identification Authority of India Bill, 2010". The major issues discussed during the sitting broadly related to stipulations prescribed by the Ministry of Finance and the Reserve Bank of India for using aadhaar numbers for opening bank accounts; new account holders added through aadhaar numbers; and utility of aadhaar number in

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financial inclusion, social sector lending, etc. The Chairman directed the representatives of Indian Banks' Association (IBA) to furnish replies to the points raised by the Members during the discussion within a week.

The witnesses then withdrew.

Part IV
(1300 hrs. to 1400 hrs.)

WITNESS

Dr. Reetika Khera, Visitor, Centre for Development Economics, Delhi School of Economics

6. The Committee then heard Dr. Reetika Khera, on "The National Identification Authority of India Bill, 2010". The major issues discussed broadly related to nature of Aadhaar number; existing ID proof documents and need for aadhaar number; usage and benefits of aadhaar number particularly in Mahatama Gandhi National Rural Employment Guarantee Scheme, Public Distribution System, implications of the UID programme; relevance of Report of London School of Economics on UK's Identity Act 2006 in the context of aadhaar number etc. The Chairman directed the expert to furnish replies to the points raised by the Members during the discussion within a week.

A verbatim record of the proceedings was kept.

The witness then withdrew

The Committee then adjourned at 1400 hours.

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MINUTES OF THE TWENTY-SECOND SITTING OF THE STANDING COMMITTEE ON FINANCE (2010-11)

The Committee sat on Friday, the 29th July, 2011 from 1100 hrs to 1715 hrs.

PRESENT

Shri Yashwant Sinha – **Chairman**

MEMBERS

LOK SABHA

2. Dr. Baliram (Lalganj)
3. Shri C.M. Chang
4. Shri Gurudas Dasgupta
5. Shri Nishikant Dubey
6. Shri Bhartruhari Mahtab
7. Shri Mangani Lal Mandal
8. Dr. Kavuru Sambasiva Rao
9. Shri Manicka Tagore

RAJYA SABHA

10. Shri S.S. Ahluwalia
11. Shri Raashid Alvi
12. Shri Moinul Hassan
13. Shri Satish Chandra Misra
14. Shri Mahendra Mohan
15. Dr. Mahendra Prasad
16. Dr. K.V.P. Ramachandra Rao

SECRETARIAT

- | | | |
|---------------------------------|---|------------------|
| 1. Shri A. K. Singh | – | Joint Secretary |
| 2. Shri R.K. Jain | – | Director |
| 3. Shri Ramkumar Suryanarayanan | – | Deputy Secretary |
| 4. Shri Kulmohan Singh Arora | – | Under Secretary |

Part I
(1100 hrs. to 1130 hrs.)

2.	XX	XX	XX	XX.
	XX	XX	XX	XX.

Part II
(1130 hrs. to 1300 hrs.)

WITNESSES

3.	XX	XX	XX	XX.
	XX	XX	XX	XX.

The witnesses then withdrew.

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Part III
(1400 hrs. to 1715 hrs.)
WITNESSES

Confederation of Indian Industry (CII)

1. Mr Arun Duggal,
Vice Chairman, International Asset Reconstruction Company (IARC)
and Chairman Shriram Capital Limited
2. Mr Chirag Jain,
Chief Operating Officer
Canara HSBC Oriental Bank of Commerce Life Insurance Company Limited
3. Mr Ravi Gandhi,
VP, Corporate Regulatory Affairs
Bharti Airtel
4. Mr Rameesh Kailasam,
Program Director
IBM India Pvt. Limited

4. The Committee heard the representatives of Confederation of Indian Industry (CII) in connection with examination of 'The National Identification Authority of India Bill, 2010'. The major issues discussed included, existing ID proof documents and the rationale and necessity of aadhaar number; usage, benefits and objects of aadhaar number; role of aadhaar number in planning and formulation of social policies; collection of biometric and demographic information; measures for enrolment of certain categories like persons with disability; exploration of alternate and economical identity system; opening up of Registrars and enrolment agencies to private sector; technological issues involved in the UID project; financial implications of the UID project; impact of the provisions of the Bill on the individual's right to privacy; potential of possible use of aadhaar numbers by illegal residents; lessons learnt from global practice and failures experienced in different countries in establishment of identity system similar to aadhaar number especially relevance of report of London School of Economics on UK Identity Act, 2006; legality of implementation of the UID project before the law is enacted by the Parliament;

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making the penal provisions of the Bill in line with IT Act, 2000 etc. The Chairman directed the representatives of Confederation of Indian Industry (CII) to give suggestions clause-by-clause along-with the replies to the points raised by the Members within ten days.

The witnesses then withdrew.

WITNESSES

Experts

1. Dr. Usha Ramanathan,
Independent Law Researcher on the jurisprudence on Law,
Poverty and Rights, New Delhi
2. Dr. R. Ramakumar,
Associate Professor,
Tata Institute of Social Sciences, Mumbai
3. Shri Gopal Krishna,
Member, Citizen Forum for Civil Liberties, New Delhi

5. The Committee then heard the experts on "The National Identification Authority of India Bill, 2010". The major issues discussed broadly related to beneficiaries of aadhaar number including the eligibility of children; feasibility study on the UID project; costs and benefits analysis of the UID project; global experience in creation of a national data base of its citizens with biometrics; convergence of data, its usage and its consequences; functioning of the UIDAI under Executive order and implementation of the UID project before an enactment of law; impact of the provisions of the Bill on civil rights and liberties; implications of the provisions of the Bill on RTI Act, 2005; responsibilities of 'Introducer' and liability of the UIDAI; outsourcing of works by the UIDAI and its responsibilities; alternate system of identification etc. The Chairman directed the experts to furnish replies to the points raised by the Members during the discussion within ten to fifteen days.

A verbatim record of the proceedings was kept.

The witnesses then withdrew

The Committee then adjourned

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Minutes of the Sixth sitting of the Standing Committee on Finance (2011-12)

The Committee sat on Thursday, the 08th December, 2011 from 1500 hrs. to 1615 hrs.

PRESENT

Shri Yashwant Sinha – Chairman

MEMBERS

LOK SABHA

2. Shri Shivkumar Udasi Chanabasappa
3. Shri Harishchandra Deoram Chavan
4. Shri Bhakta Charan Das
5. Shri Nishikant Dubey
6. Shri Chandrakant Khairi
7. Shri Bhartruhari Mahtab
8. Shri Prem Das Rai
9. Dr. Kavuru Sambasiva Rao
10. Shri Rayapati S. Rao
11. Shri Magunta Sreenivasulu Reddy
12. Shri G.M. Siddeswara
13. Shri Yashvir Singh
14. Shri R. Thamaraiselvan
15. Dr. M. Thambidurai

RAJYA SABHA

16. Shri S.S. Ahluwalia
17. Shri Raashid Alvi
18. Shri Vijay Jawaharlal Darda
19. Shri Moinul Hassan
20. Shri Satish Chandra Misra
21. Shri Mahendra Mohan
22. Dr. Mahendra Prasad
23. Dr. K.V.P. Ramachandra Rao
24. Shri Yogendra P. Trivedi

SECRETARIAT

- | | | |
|------------------------------------|---|------------------|
| 1. Shri A. K. Singh | – | Joint Secretary |
| 2. Shri R.K. Jain | – | Director |
| 3. Shri Ramkumar Suryanarayanan | – | Deputy Secretary |

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2. The Committee took up the following draft Reports for consideration and adoption:-

- (i) The Insurance Laws (Amendment) Bill, 2008;
- (ii) The National Identification Authority of India Bill, 2010; and
- (iii) The Banking Laws (Amendment) Bill, 2011.

3. The Committee adopted the above draft reports with some minor modifications/changes as suggested by Members. The Committee authorised the Chairman to finalise the Reports in the light of the modifications suggested and present these Reports to Parliament.

The Committee then adjourned

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ANNEXURE P-6

AADHAAR ENROLMENT/CORRECTION FORM

Aadhaar Enrolment is free and voluntary. Correction within 96 hours of enrolment is also free. No charges are applicable for Form and Aadhaar Enrolment. In case of Correction provide your EID, Name and only that field which needs Correction.

In case of Correction provide your EID No. here:

Please follow the instructions overleaf while filling up the form. Use capital letters only.

1. Pre-Enrolment ID
2. NPR Receipt/TIN Number
3. Full Name
4. Gender: Male() Female() transgender ()
5. Age: Yrs OR Date of Birth Declared Verified
6. Address
C/o () D/o () S/o () W/o () H/o ()

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House No. /Bigs./Apt.

Street/Road/Lane

Landmark

Area/locality/sector

Village/Town/City:

Post Office

District

Sub-District

State

E-Mail

Mobile No

Pin code

7. Details of : Father () Mother () Guardian () Husband () Wife () For children below 5yers Father/Mother/Guardian's details are mandatory. Adults can opt to not specify this information, if they cannot/do not want to disclose.

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Name

EID/Aadhaar No.

8. I have no objection to the UIDAI sharing information provided by me to the UIDAI with agencies engaged in delivery of public services including welfare services.

9. Select one of the below (Optional) (This date cannot be Corrected after Enrolment)

I want the UIDAI to facilitate opening of a new Bank/Post Office Account linked to my Aadhaar Number and have no objection to sharing my information for this purpose

I have no objection to linking my present bank account provided here to my Aadhaar number

State Bank Name/Branch

IFSC Code Account No.

Verification Type:- document Based ()

Introducer Based () Head of Family ()

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Select only one of the above. Select Introducer or head of Family only if you do not possess any documentary proof of identity and/or address. Introducer and Head of Family details are not required in case of Document based Verification.

10. For document Based while Names of the documents produced. Refer back side of this form for list of valid documents;

- a. POI b. POA
- c. DOB d. POR

(Mandatory in case of Verified Date of Birth)

11. For Introducer Based0Introducer's Aadhaar No.

For HoF Based Details of Father () Mother
() Guardian () Husband () Wife ()
HoF's EID/Aadhaar No.:

I hereby confirm that information (including biometrics) provided by me to the UIDA and the information contained herein is my own and is true, correct and accurate.

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Applicant's signature/thumbprint

Verifier's Stamp and Signature:

(Verifier must put his/her name, if stamp is not available)

To be filed by the Enrolment Agency only

Date & time of enrolment:

Instructions to follow while filling up the enrolment form

Field 2 NPR NUMBER	Resident may bring his/her National Population Register survey Slip (if available) and fill up the column.
Field 3 NAME	Write full name without salutations/filles. Please bring the original "Proof of identity (POI) document. (See list a below). Variation in resident's Name in contrast to Pot is permissible as long as the change is minor spelling only,

	without altering the Name in Pol document For Example: If Resident's Pol reads "Preeti" then "Priti" can be recorded if Resident wants so.
Field 5 DOB/Age	Fill in Date of Birth in DDMMYYYY formal. If exact Date of birth is not known, approximate age in Years may be filled in the space provided. Please bring the original Proof of Date of Birth (DoB). If available (See list D Below). Declared checkbox may be selected if Resident does not have a valid proof of Date of Birth document. Verified checkbox is selected where Resident has provided documents as proof of Date of Birth.
Field 6 ADDRESS	Write complete address.

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		<p>Please bring original Proof of Address (OA) document. (See list 8 below). Please note that the Aadhaar latter will be delivered at the given address only.</p> <p>To include Parent/Guardian/Spouse name as part of the address, select the appropriate box and enter the name of the person.</p> <p>Minor</p> <p>Corrections/Enhancements are permissible to make the address complete without altering the base address as mentioned in the POA document.</p>
Field RELATIONSHIP	7	<p>In case of children below 5 years, it is mandatory to provide father/mother/guardian</p>

	<p>details with their Aadhaar or EID number.</p> <p>If the resident is not holding a Proof of identity & using the Head of the Family identity for enrolment, it is mandatory to provide Head of the family's details with his/her Aadhaar or EID number. Please refer illustration below for filling EID. Please bring the original Proof of Relationship (POR) document. (See list C below).</p> <p>For other cases, it is optional for the resident to fill up the relationship details.</p>
Field 8 CONSENT	<p>Resident may specifically express</p> <p>willingness/unwillingness by selecting the relevant box.</p>
Field9 BANK ACCOUNT	Resident may choose to open

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		a new Aadhaar enabled bank/POSB account or can link existing bank account to Aadhaar number. Relevant details as requested may be provided. This is an optional field.
Field DOCUMENTS	10	Write the name of Documents for Pol and PoA. In case proof of Date of Birth is available, then write the name of Date of birth document. If the residents is not holding a Proof of Identity & using the Head of Family based enrolment, then write the name of Proof of Relationship document. For Valid list of documents please refer list of Documents below.
Field INTRODUCER/ HoF	11	Resident who does not have POI and PO may get enrolled

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	through an introducer/Head of Family. PL contact nearest enrolment centre of your Registrar, for further details.
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List A. POI Documents

1.	Passport
2.	PAN Card
3.	Ration/POS Photo Card
4.	Voter ID
5.	Driving License
6.	Government Photo ID Cards/service photo identity card issued by PSU
7.	NREGS Job Card
8.	Photo ID issued by Recognized Educational Institution
9.	Arms License
10.	Photo Bank ATM Card
11.	Photo Credit Card
12.	Pensioner Photo Card
13.	Freedom Fighter Photo Card
14.	Kissan Photo Passbook

15.	CGHS/ECHS Photo Card
16.	Address Card having Name and Photo issued by Department of Posts
17.	Certificate of Identify having photo issued by Gazetted Officer or Tehsildar on letterhead
18.	Disability ID Card/handicapped medical certificate issued by the respective State/UT Governments/Administrations

List B. POA documents

1.	Passport
2.	Bank Statement/Passbook
3.	Post Office Account Statement/Passbook
4.	Ration Card
5.	Voter ID
6.	Driving License
7.	Government Photo ID Cards/service photo identity card issued by PSU
8.	Electricity Bill (not order than 3 months)
9.	Water bill (not order than 3 months)

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10.	Telephone Landline Bill (not order than 3 months)
11.	Property Tax Receipt (not order than 3 months)
12.	Credit Card Statement (not order than 3 months)
13.	Insurance Policy
14.	Signed Letter having Photo from Bank on letterhead
15.	Signed Letter having Photo issued by registered Company on letterhead
16.	Signed letter having photo issued by Recognized Educational instruction on letterhead
17.	NREGS Job card
18.	Arms License
19.	Pensioner Card
20.	Freedom fighter Card
21.	Kissan Passbook
22.	CGHS/ECHS Card
23.	Certificate of Address having photo issued

	by MP or MLA or Gazetted Officer or Tahsildar on letterhead
24.	Certificate of Address issue by Village Panchayat head or its equivalent authority (for rural areas)
25.	Income Tax Assessment Order
26.	Vehicle Registration Certificate
27.	Registered Sale/Lease/Rent Agreement
28.	Address Card having Photo issued by Department of Posts
29.	Caste and Domicile Certificate having Photo issued by State Govt.
30.	Disability ID card/handicapped medical certificate issued by the respective State/UT Governments/Administrations
31.	Gas Connection Bill (not older than 3 months)
32.	Passport of Spouse
33.	Passport of Parents (in case of Minor)

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List C. POR Documents

1.	PDS Card
2.	MNREGA Job Card
3.	CGHS/State Government/ECHS/ESIC Medical card
4.	Pension Card
5.	Army Canteen Card
6.	Passport
7.	Birth Certificate issued by Registrar of Birth. Municipal Corporation and other notified local government bodies like Taluk. Tehsil etc.
8.	Any other Central/State government issued family entitlement document.

List D. DOB Documents

1.	Birth Certificate
2.	SSLC Book/Certificate
3.	Passport
4.	Certificate of Date of Birth issued by Group A Gazetted Officer on Letterhead

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ENROLMENT FORM

Please use CAPITAL letters AADHAAR Enrolment
under.....

Date

Part A - Primary Details

Name:

Mother Father Husband Guardian's Name
(Name of Mother/Father/Guardian is must for
children below 5 years of age)

Date of Birth: If not known, Age

Gender: male Female Transgender

Residential address

C/o.....

House No. And name/

Landmark

Village/City.

District

State Pin Code/

Part B- Additional Information

Phone No/Mobile No (Optional)

E-mail (Optional)

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Part C- Financial Information

I want to link my existing bank A/c to Aadhar
and have No. This issue Bank Name and Branch.

A/c No.

ENROLLMENT FORM

Please use CAPITAL letters

AADHAAR/Enrolment

Number:

Date

Part A - Primary Details

Name:

Mother Father Husband Guardians Name

(Name of Mother/Father Guardian is must for
children below 5 years of age)

Date of Birth:

If not known Age

Gender: Male Female Transgender

Residential address:

C/o

House No. And name

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Street No and name.....

Landmark :

Village/City:

District:

State :..... Pin code

Part B - Additional information

Phone No. Mobile No (optional)

Email (optional)

Part C - Financial information

I want to link my existing bank A/c to Aadhaar
and I have no objection on this issue.

Bank name and Branch

A/c No.

//TRUE COPY//

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ANNEXURE- P/7



AADHAAR ENROLMENT / CORRECTION FORM

Aadhaar Enrolment is free and voluntary. Correction within 96 hours of enrolment is also free. No charges are applicable for Form and Aadhaar Enrolment. In case of Correction provide your EID, Name and only that field which needs Correction.
In case of Correction provide your EID No here:

Please follow the instructions overleaf while filling up the form. Use capital letters only.

1	Pre-Enrolment ID :	2	NPR Receipt/TIN Number :
3	Full Name:		
4	Gender: Male () Female () Transgender ()	5	Age: Yrs OR Date of Birth: Declared <input type="checkbox"/> Verified <input type="checkbox"/>
6	Address: C/o () D/o () S/o () W/o () H/o () House No/ Bldg./Apt. Street/Road/Lane Landmark Area/locality/sector Village/Town/City Post Office District Sub-District State E Mail Mobile No PIN CODE		
7	Details of : Father () Mother () Guardian () Husband () Wife () <small>For children below 5 years father/Mother/Guardian's details are mandatory. Adults can opt to not specify this information, if they cannot/do not want to disclose.</small> Name EID/ Aadhaar No.:		
8	I have no objection to the UIDAI sharing information provided by me to the UIDAI with agencies engaged in delivery of public services including welfare services. (✓) / (x)		
9	Select <input checked="" type="checkbox"/> one of the below (OPTIONAL) (This data cannot be Corrected after Enrolment). <input type="checkbox"/> I want the UIDAI to facilitate opening of a new Bank/Post Office Account linked to my Aadhaar Number and have no objection to sharing my information for this purpose <input type="checkbox"/> I have no objection to linking my present bank account provided here to my Aadhaar number State Bank Name/Branch IFSC Code Account No.		
Verification Type : Document Based () Introducer Based () Head of Family () Select only one of the above. Select Introducer or Head of Family only if you do not possess any documentary proof of identity and/or address. Introducer and Head of Family details are not required in case of Document based Verification.			
10	For Document Based (Write Names of the documents produced. Refer back side of this form for list of valid documents) a. POI b. POA c. DOB d. POR <small>(Mandatory in case of Verified Date of Birth)</small>		
11	For Introducer Based - Introducer's Aadhaar No.	For HoF Based - Details of : Father () Mother () Guardian () Husband () Wife () HoF's EId/Aadhaar No.:	
I hereby confirm the identity and address of _____ as being true, correct and accurate.			
Introducer/HoF's Name:		Signature of Introducer/HoF	

Consent

I confirm that information (including biometrics) provided by me to the UIDAI and the information contained herein is my own and is true, correct and accurate.

Applicant's signature/Thumbprint

Verifier's Stamp and Signature:
(Verifier must put his/her Name, if stamp is not available)

To be filled by the Enrolment Agency only : Date & time of Enrolment: _____

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Instructions to follow while filling up the enrolment form

Field 2 NPR NUMBER	Resident may bring his/her National Population Register Survey slip (if available) and fill up the column.
Field 3 NAME	Write full name without salutations/titles. Please bring the original* Proof of Identity (POI) document. (See list A below). Variation in Resident's Name in contrast to POI is permissible as long as the change is minor spelling only, without altering the Name in POI document. For Example: If Resident's POI reads "Preeth", then "Priit" can be recorded if Resident wants so.
Field 5 DOB / AGE	Fill in Date of Birth in COMYYYY format. If exact Date of Birth is not known, approximate age in Years may be filled in the space provided. Please bring the original Proof of Date of Birth (DOB), if available. (See list D below). Declared checkbox may be selected if Resident does not have a valid proof of Date of Birth document. Verified checkbox is selected where Resident has provided documents as proof of Date of birth.
Field 6 ADDRESS	Write complete address. Please bring the original Proof of Address (POA) document. (See list B below). Please note that the Aadhaar letter will be delivered at the given address only. <ul style="list-style-type: none"> To include Parent / Guardian / Spouse name as part of the address, select the appropriate box and enter the name of the person. Minor Corrections / Enhancements are permissible to make the address complete without altering the base address as mentioned in the POA document.
Field 7 RELATIONSHIP	<ul style="list-style-type: none"> In case of children below 5 years, it is mandatory to provide father/mother/guardian details with their Aadhaar or EID number. If the resident is not holding a Proof of Identity & using the Head of the Family identity for enrolment, it is mandatory to provide Head of the family's details with his/her Aadhaar or EID number. Please refer illustration below for filling EID. Please bring the original Proof of Relationship (POR) document. (See list C below). For other cases, it is optional for the resident to fill up the relationship details.
Field 8 CONSENT	Resident may specifically express willingness / unwillingness by selecting the relevant box.
Field 9 BANK ACCOUNT	Resident may choose to open a new Aadhaar enabled bank / POSB account or can link existing bank account to Aadhaar number. Relevant details as requested may be provided. This is an optional field.
Field 10 DOCUMENTS	Write the name of Documents for POI and POA. In case proof of Date of Birth is available, then write the name of Date of Birth document. If the resident is not holding a Proof of Identity & using the Head of Family based enrolment, then write the name of Proof of Relationship document. For Valid list of documents, please refer list of Documents below.
Field 11 INTRODUCER/MoF	Resident who does not have POI and POA may get enrolled through an Introducer/ Head of Family. Pl contact nearest enrolment centre or your Registrar, for further details.

List A. POI documents

1. Passport
2. PAN Card
3. Ration/ PDS Photo Card
4. Voter ID
5. Driving License
6. Government Photo ID Cards/ service photo identity card issued by PSU
7. NREGS Job Card
8. Photo ID issued by Recognized Educational Institutions
9. Arms License
10. Photo Bank ATM Card
11. Photo Credit Card
12. Pensioner Photo Card
13. Freedom Fighter Photo Card
14. Kisan Photo Passbook
15. CGHS / ECHS Photo Card
16. Address Card having Name and Photo issued by Department of Posts
17. Certificate of Identity having photo issued by Gazetted Officer or Tehsildar on letterhead
18. Disability ID Card/handicapped medical certificate issued by the respective State/UT Governments/Administrations

List B. POA documents

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Passport 2. Bank Statement/ Passbook 3. Post Office Account Statement/Passbook 4. Ration Card 5. Voter ID 6. Driving License 7. Government Photo ID cards/ service photo identity card issued by PSU 8. Electricity Bill (not older than 3 months) 9. Water bill (not older than 3 months) 10. Telephone Landline Bill (not older than 3 months) 11. Property Tax Receipt (not older than 3 months) 12. Credit Card Statement (not older than 3 months) 13. Insurance Policy 14. Signed Letter having Photo from Bank on letterhead 15. Signed Letter having Photo issued by registered Company on letterhead 16. Signed Letter having Photo issued by Recognized Educational Institution on letterhead 17. NREGS Job Card 18. Arms License 19. Pensioner Card 20. Freedom Fighter Card | <ol style="list-style-type: none"> 21. Kisan Passbook 22. CGHS / ECHS Card 23. Certificate of Address having photo issued by MP or MLA or Gazetted Officer or Tehsildar on letterhead 24. Certificate of Address issued by Village Panchayat head or its equivalent authority (for rural areas) 25. Income Tax Assessment Order 26. Vehicle Registration Certificate 27. Registered Sale / Lease / Rent Agreement 28. Address Card having Photo issued by Department of Posts 29. Caste and Domicile Certificate having Photo issued by State Govt. 30. Disability ID Card/handicapped medical certificate issued by the respective State/UT Governments/Administrations 31. Gas Connection Bill (not older than 3 months) 32. Passport of Spouse 33. Passport of Parents (in case of Minor) |
|---|---|

List C. POR documents

1. PDS Card
2. MNREGA Job Card
3. CGHS/State Government/ECHS/ESIC Medical card
4. Pension Card
5. Army Canteen Card
6. Passport
7. Birth Certificate issued by Registrar of Birth, Municipal Corporation and other notified local government bodies like Taluk, Tehsil etc.
8. Any other Central/State government issued family entitlement document.

List D. DOB documents

1. Birth Certificate
2. SSLC Book/Certificate
3. Passport
4. Certificate of Date of Birth issued by Group A Gazetted Officer on Letterhead

Illustration for filling up EID No.

Acknowledgement/Realdest Copy: 4278 / 2411 n16

Enrolment No./Enlistment No.: 00011234501020

Date/DOB: 23/04/2011 18:30:16

on EID No: 0008123450002028042011155016

*In instances where original documents are not available, copies attested / certified by a public notary / gazetted officer will be accepted.

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ENROLMENT FORM

Please use CAPITAL letters AADHAAR Enrolment under

Date

Part A – Primary Details

Name :

Mother Father Husband Guardian's Name

(Name of Mother/Father/Guardian is must for children below 5 years of age)

Date of Birth: If not known, Age

Gender: male Female Transgender

Residential address

C/o

House No. And name/

Landmark

Village/City

District

State Pin Code/

Part B- Additional Information

Phone No./Mobile No (Optional)

E-mail (Optional)

Part C- Financial Information

I want to link my existing bank A/c to Aadhar and have No. This issue

Bank Name and Branch

A/c No.

ENROLLMENT FORM

Please use CAPITAL letters AADHAAR/Enrolment
number:

Date

Part A – Primary Details

Name:

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Mother Father Husband Guardians Name

(Name of Mother/Father Guardian is must for children below 5 years of age)

Date of Birth:

If not known Age

Gender: Male Female

Transgender

Residential address :

C/o

House No. And name

Street No and name

Landmark :

Village/City :

District :

State : Pin code

Part B – Additional information

Phone No/ Mobile No (optional) :

Email (optional)

Part C – Financial information

I want to link my existing bank A/c to Aadhaar and I have no objection on this issue.

Bank name and Branch

A/c No.

Order dated 23-9-2013

ITEM NO.5+56

Court No.5

SECTION PIL

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S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
WRIT PETITION (CIVIL) NO(s). 494 OF 2012

JUSTICE K.S.PUTTASWAMY(RETD)& ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for stay)

WITH T.P.(C) NO. 47-48 of 2013
(With appln(s) for stay and office report)
(Appln. for deletion of the name of petitioner no. 1)

T.P.(C) NO. 476 of 2013
(With appln(s) for stay and office report)

W.P.(C) No. 829 of 2013
(With appln(s) for interim relief and office report)

Date: 23/09/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Mr. Anil B. Divan, Sr. Adv.
Mr. Ankit Goel, Adv.
Mr. Ranvir Singh, Adv.
Mr. Sanjay Yadav, Adv.
Mr. Anish Kumar Gupta, Adv.
Ms. Deepshikha Bharati, Adv.
Mr. S.S. Shamsbery, Adv.
Mr. Rajeev Kr. Singh, Adv.
Mr. Nachiketa Joshi, Adv.

Mr. P.R. Kovilan Poongkuntran, Adv.
Mrs. Geetha Kovilan, Adv.

Mr. Shyam Divan, Sr. Adv.
Mr. Pratap Venugopal, Adv.
Ms. Meenakshi Chauhan, Adv.
Mr. Varun Singh, Adv.
Mr. Gaurav Nair, Adv.
M/s. K.J. John & Co.

for

For Respondent(s)

Mr. Mohan Parasaran, SG
Mr. L. Nageshwar Rao, ASG
Mr. Farrukh Rasheed, Adv.

Order dated 23-9-2013
Mr. Alok Mishra, Adv.
Mr. D.S. Mahra, Adv

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UPON hearing counsel the Court made the following
O R D E R

Issue notice in W.P.(C) No. 829/2013.

Application for deletion of the name of petitioner no. 1 in
T.P.(C) Nos. 47 of 2013 is allowed.

T.P.(C)nos. 47-48 of 2013 and T.P.(C) No. 476 of 2013 are
allowed in terms of the signed order.

All the matters require to be heard finally. List all
matters for final hearing after the Constitution Bench is over.

In the meanwhile, no person should suffer for not getting
the Adhaar card inspite of the fact that some authority had issued
a circular making it mandatory and when any person applies to get
the Adhaar Card voluntarily, it may be checked whether that person
is entitled for it under the law and it should not be given to any
illegal immigrant.

| (DEEPAK MANSUKHANI)
| Court Master

| (M.S. NEGI)
| Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO(s). 47-48 OF 2013

THE GOVT. OF INDIA & ORS. ETC.

....Petitioner(s)

VERSUS

S. RAJU & ANR. ETC.

....Respondent(s)

WITH

TRANSFER PETITION(CIVIL) NO(s). 476 OF 2013

O R D E R

Heard learned counsel for the parties.

Having regard to the facts and circumstances of the case, we are satisfied that this is a fit case where the prayer for transfer is to be allowed.

On the facts of the case, we allow these Transfer Petitions and direct that W.P(C) No. 439 of 2012 titled S. Raju Vs. Govt. of India and Others pending before the D.B. of the High Court of Judicature at Madras and PIL No. 10 of 2012 titled Vickram Crishna and Others Vs. UIDAI and Others pending before the High Court of Judicature at Bombay be transferred to this Court. The Registry of the High Court of Madras and Registry of the High Court of Bombay are requested to transmit the original records to this Court expeditiously.

These Transfer Petitions are accordingly allowed.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(S.A. BOBDE)

NEW DELHI;
SEPTEMBER 23, 2013.

Order dated 26-11-2013

ITEM NO.1

COURT NO.5

SECTION PIL

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 494 OF 2012

JUSTICE K.S.PUTTASWAMY(RETD)& ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)
 (With appln(s) for directions, stay, intervention, clarification /
 modification of court's order, impleadment and office report)
 (For final disposal)

WITH W.P(C) NO. 829 of 2013
 (With appln(s) for interim relief and impleadment and office report)
 (For final disposal)
 W.P(C) NO. 932 of 2013
 (With appln(s) for directions and office report)
 W.P.(C) No. 833 of 2013
 (With appln(s) for directions & impleadment & office report)
 (For final disposal)
 T.C.(C) No. .../2013 @ T.P.(C) No. 47-48/2013
 (With appln(s) for stay and deletion of the name of petitioner)
 (For final disposal)
 T.C.(C) No. /2013 @ T.C.(C) No. 476/2013
 (With appln(s) for stay)
 (For final disposal)

Date: 26/11/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
 HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Mr. Soli J. Sorabjee, Sr. Adv.
 Mr. Mehernaz Mehta, Adv.
 Mr. Ankit, Adv.
 Mr. Anil B. Diwan, Sr. Adv.
 Mr. Ankit Goel, Adv.
 Ms. Deepshikha Bharti, Adv.
 Ms. Nachiketa Joshi, Adv.
 M. Pattabhi Ram, Adv.
 Mr. S.S. Shamsheerya, Adv.
 Mr. Nishant Katreswarkar, Adv.
 Mr. Mehernaaz Mehta, Adv.
 Mr. Sanjay Yadav, Adv.
 Mr. Anish Kumar Gupta, Adv.

Mr. Mohit Chaudhary, Adv.
 Ms. Varnika Singh, Adv.
 Mr. Imran Ali, Adv.

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Ms. Damani Chawla, Adv.
 Mr. Harsh Sharma, Adv.
 Ms. Jyoti Mendiratta, Adv.

Mr. Shyam Divan, Sr. Adv.
 Mr. Pratap Venugopal, Adv.
 Ms. Meenakshi Chauhan, Adv.
 Mr. Varun Singh, Adv.
 Mr. Anuj Sarna, Adv.
 Mr. Nirman Sharma, Adv.

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Order dated 26-11-2013
Mr. Abhinav Malhotra, Adv.
M/S. K.J. John & Co., Adv.

Mr. P.S. Narashima, Sr. Adv.
Mr. V. Mohana, Adv.
Mr. B. Raghunath, Adv.
Mr. S. Prasana, Adv.
Mr. Ishaan Geroje, Adv.
Mr. Vijay Kumar.

Ms. Aishwarya Bhati, Adv.
Mr. D.S. Mahra, Adv.

Mr. P.R. Kovilan, Adv.
Mrs. Geetha Kovilan, Adv.

For Respondent(s)

Mr. Mohan Parasaran, S.G.
Mr. Alok Kumar, Adv.
Mr. Alok Prassana, Adv.
Mr. Anupam Prasad, Adv.
Mr. D.S. Mahra, Adv.

Mr. Sunil Kumar, Sr. Adv.
Mr. Tapesk Kumar Singh, Adv.
Mr. Mohd. Waquas, Adv.

Mr. Mohit D. Ram, Adv.
Ms. Madhvi Chaudary, Adv.
Mr. Vasv Anant Raman, Adv.

For Intervenors

Mr. L. Nageshwara Rao, ASG
Mr. Amit Meharia, Adv.
Ms. Khushbu Jain, Adv.
For M/s Meharia & Co., Adv.

Mr. Sai Krishna Rajgopal, Adv.
Ms. Julian George, Adv.

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Mr. Nikhil Nayyar, Adv.
Ms. Pritha Srikumar Iyer, Adv.
Mr. Dhananjay Baijal, Adv.
Ms. Akanksha, Adv.

UPON hearing counsel the Court made the following
O R D E R

After hearing the matter at length, we are of the view that all the States and Union Territories have to be impleaded as respondents to give effective directions. In view thereof notice be issued to all the States and Union Territories through standing counsel.

The advocates who have already entered appearance must file their replies within a period of three days from today. Learned standing counsel for the States who were not represented may take instructions from their respective States and file their response within one week.

List this matter for further hearing on 10th December, 2013.

Interim order to continue, in the meantime.

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Order dated 26-11-2013 [M.S. Negi]
Court Master

[Neeta]
Sr. P.A.

ANNEXURE P-9

ITEM NO. 57

COURT NO.4

SECTION IIA

**S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S**

Petition(s) for Special Leave to Appeal (Crl) No(s).2524/2014

(From the judgement and order dated 26/02/2014 in CRLWP No.10/2014, of The HIGH COURT OF BOMBAY AT PANAJI)

UNIQUE IDENTIFICATION AUTH.OF INDIA &ANR

Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION

Respondent(s)

(With appln. for exemption from filing c/c of the impugned Judgment and office report)

Date: 24/03/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN

HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Mr.Mohan Parasaran, SG

Mr.Rakesh Khanna, ASG

Mr. Zohen Hossain, Adv.

Mr. Alok Mishra, Adv.

Mr. D.S. Mahra,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Issue notice.

In addition to normal mode of service, dasti service, is permitted.

Operation of the impugned order shall remain stayed.

In the meanwhile, the present petitioner is restrained from transferring any biometric information of any person who has been allotted the Aadhaar number to any other agency without his consent in writing.

..2/-

:2:

More so, no person shall be deprived of any service for want of Aadhaar number in case he/she is otherwise eligible/entitled. All the authorities are directed to modify their forms/circulars/likes so as to not compulsorily require the Aadhaar number in order to meet the requirement of the interim order passed by this Court forthwith.

Tag and list the matter with main matter i.e. WP(C) No.494/2012.

[Usha Bhardwaj]
A.R.-cum-P.S.

[M.S. Negi]
Assistant Registrar

//TRUE COPY//

REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO.494 OF 2012

Justice K.S. Puttaswamy (Retd.) & Another ... Petitioners

Versus

Union of India & Others ... Respondents

WITH
TRANSFERRED CASE (CIVIL) NO.151 OF 2013
TRANSFERRED CASE (CIVIL) NO.152 OF 2013
WRIT PETITION (CIVIL) NO.829 OF 2013
WRIT PETITION (CIVIL) NO.833 OF 2013
WRIT PETITION (CIVIL) NO.932 OF 2013
TRANSFER PETITION (CIVIL) NO.312 OF 2014
TRANSFER PETITION (CIVIL) NO.313 OF 2014
WRIT PETITION (CIVIL) NO.37 OF 2015
WRIT PETITION (CIVIL) NO.220 OF 2015
TRANSFER PETITION (CIVIL) NO.921 OF 2015
CONTEMPT PETITION (CIVIL) NO.144 OF 2014 IN WP(C) 494/2012
CONTEMPT PETITION (CIVIL) NO.470 OF 2015 IN WP(C) 494/2012

ORDER

1. In this batch of matters, a scheme propounded by the Government of India popularly known as "Aadhaar Card Scheme" is

under attack on various counts. For the purpose of this order, it is

Signature Invalid
Digitally signed by
Deepak Kumar
Date: 2015.12.17
Reason: ...

It is necessary for us to go into the details of the nature of the scheme

and the various counts on which the scheme is attacked. Suffice it to say that under the said scheme the Government of India is collecting and compiling both the demographic and biometric data of the residents of this country to be used for various purposes, the details of which are not relevant at present.

2. One of the grounds of attack on the scheme is that the very collection of such biometric data is violative of the "right to privacy". Some of the petitioners assert that the right to privacy is implied under Article 21 of the Constitution of India while other petitioners assert that such a right emanates not only from Article 21 but also from various other articles embodying the fundamental rights guaranteed under Part-III of the Constitution of India.

3. When the matter was taken up for hearing, Shri Mukul Rohatgi, learned Attorney General made a submission that in view of the judgments of this Court in ***M.P. Sharma & Others v. Satish Chandra & Others***, AIR 1954 SC 300 and ***Kharak Singh v. State of U.P. & Others***, AIR 1963 SC 1295, (decided by *Eight* and *Six* Judges respectively) the legal position regarding the existence of the fundamental right to privacy is doubtful. Further, the learned Attorney General also submitted that in a catena of decisions of this Court rendered subsequently, this Court referred to "right to privacy", contrary to the judgments in the abovementioned cases which resulted

in a jurisprudentially impermissible divergence of judicial opinions.

"A power of search and seizure is in any system of jurisprudence an overriding power of the State for the protection of social security and that power is necessarily regulated by law. When the Constitution makers have thought fit not to subject such regulation to constitutional limitations **by recognition of a fundamental right to privacy**, analogous to the American Fourth Amendment, **we have no justification to import it, into a totally different fundamental right, by some process of strained construction.** [See: M.P. Singh & Others v. Satish Chandra & Others, AIR 1954 SC 300, page 306 para 18]

"... Nor do we consider that Art. 21 has any relevance in the context as was sought to be suggested by learned counsel for the petitioner. As already pointed out, **the right of privacy is not a guaranteed right under our Constitution** and therefore the attempt to ascertain the movement of an individual which is merely a manner in which privacy is invaded is not an infringement of a fundamental right guaranteed by Part III." [See: Kharak Singh v. State of U.P. & Others, AIR 1963 SC 1295, page 1303 para 20]

[Emphasis supplied]

4. Learned Attorney General submitted that such impermissible divergence of opinion commenced with the judgment of this Court in **Gobind v. State of M.P. & Another**, (1975) 2 SCC 148, which formed the basis for the subsequent decision of this Court wherein the "right to privacy" is asserted or at least referred to. The most important of such cases are **R. Rajagopal & Another v. State of Tamil Nadu & Others**, (1994) 6 SCC 632 (popularly known as *Auto Shanker's case*) and **People's Union for Civil Liberties (PUCL) v. Union of India & Another**, (1997) 1 SCC 301.

5. All the judgments referred to above were rendered by smaller Benches of two or three Judges.

6. Shri K.K. Venugopal, learned senior counsel appearing for one of

the respondents submitted that the decision of this Court in **Gobind** (*supra*) is not consistent with the decisions of this Court in **M.P. Sharma** and **Kharak Singh**. He submitted that such divergence is also noticed by the academicians, Shri F.S. Nariman, Senior Advocate of this Court and Shri A.M. Bhattacharjee¹, Former Chief Justice, High Court at Calcutta and High Court at Bombay.

7. Therefore, it is submitted by the learned Attorney General and Shri Venugopal that to settle the legal position, this batch of matters is required to be heard by a larger Bench of this Court as these matters throw up for debate important questions – (i) whether there is any “right to privacy” guaranteed under our Constitution. (ii) If such a right exists, what is the source and what are the contours of such a right as there is no express provision in the Constitution adumbrating the right to privacy. It is therefore submitted that these batch of matters are required to be heard and decided by a larger bench of at least five Judges in view of the mandate contained under Article 145(3)² of the Constitution of India.

¹

A.M. Bhattacharjee, *Equality, Liberty & Property under the Constitution of India*, (Eastern Law House, New Delhi, 1997)

² Article 145(3). The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under Article 143 shall be five:
Provided that, where the Court hearing an appeal under any of the provisions of this chapter other than Article 132 consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is

8. On behalf of the petitioners Shri Gopal Subramaniam and Shri Shyam Divan, learned senior counsel very vehemently opposed the suggestion that this batch of matters is required to be heard by a larger bench. According to them:

(i) The conclusions recorded by this Court in **R. Rajagopal** and **PUCL** are legally tenable for the reason that the observations made in **M.P. Sharma** regarding the absence of right to privacy under our Constitution are not part of ratio decidendi of that case and, therefore, do not bind the subsequent smaller Benches.

(ii) Coming to the case of **Kharak Singh**, majority in **Kharak Singh** did hold that the right of a person not to be disturbed at his residence by the State and its officers is recognized to be a part of a fundamental right guaranteed under Article 21 which is nothing but an aspect of privacy. The observation in para 20 of the majority judgment at best can be construed only to mean that there is no fundamental right of privacy against the State's authority to keep surveillance on the activities of a person. Even such a conclusion cannot be good law any more in view of the express declaration made by a seven-Judge bench decision of this Court in **Maneka Gandhi v. Union of India & Another**, (1978) 1 SCC 248³.

necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion

³ Para 5. ... It was in **Kharak Singh v. State of U.P.**, AIR 1963 SC 1295 that the question as to the proper scope and meaning of the expression 'personal liberty' came up pointedly for consideration for the first time before this Court. The

(iii) They further argued that both **M.P. Sharma** (*supra*) and **Kharak Singh** (*supra*) came to be decided on an interpretation of the Constitution based on the principles expounded in **A.K. Gopalan v. State of Madras**, AIR 1950 SC 27. Such principles propounded by **A.K. Gopalan** themselves came to be declared wrong by a larger Bench of this Court in **Rustom Cavasjee Cooper v. Union of India**, (1970) 1 SCC 248. Therefore, there is no need for the instant batch of matters to be heard by a larger Bench.

9. It is true that **Gobind** (*supra*) did not make a clear declaration that there is a right to privacy flowing from any of the fundamental rights guaranteed under Part-III of the Constitution of India, but observed that "Therefore, even assuming that the right to personal liberty, the right to move freely throughout the territory of India and the freedom of speech create an independent right of privacy as an emanation from them which one can characterize as a fundamental right, we do not think that the right is absolute".

This Court proceeded to decide the case on such basis.

10. However, the subsequent decisions in **R. Rajagopal** (*supra*) and

majority of the Judges took the view "that 'personal liberty' is used in the article as a compendious term to include within itself all the varieties of rights which go to make up the 'personal liberties' of man other than those dealt with in the several clauses of Article 19(1). In other words, while Article 19(1) deals with particular species or attributes, of that freedom, 'personal liberty' in Article 21 takes in and comprises the residue". The minority judges, however, disagreed with this view taken by the majority and explained their position in the following words: "No doubt the expression 'personal liberty' is a comprehensive one and the right to move freely is an attribute of personal liberty. It is said that the freedom to move freely is carved out of personal liberty and, therefore, the expression 'personal liberty' in Article 21 excludes that attribute. In our view, this is not a correct approach. Both are independent fundamental rights, though there is overlapping. There is no question of one being carved out of another. The fundamental right of life and personal liberty has many attributes and some of them are found in Article 19. If a person's fundamental right under Article 21 is infringed, the State can rely upon a law to sustain the action, but that cannot be a complete answer unless the said law satisfies the test laid down in Article 19(2) so far as the attributes covered by Article 19(1) are concerned". There can be no doubt that in view of the decision of this Court in **R. C. Cooper v. Union of India**, (1970) 2 SCC 298 the minority view must be regarded as correct and the majority view must be held to have been overruled.

PUCL (*supra*), the Benches were more categoric in asserting the existence of "right to privacy". While **R. Rajagopal's case**⁴ held that the "right to privacy" is implicit under Article 21 of the Constitution, **PUCL's case** held that the "right to privacy" insofar as it pertains to speech is part of fundamental rights under Articles 19(1)(a) and 21 of the Constitution⁵.

11. Elaborate submissions are made at the bar by the learned counsel for the petitioners to demonstrate that world over in all the countries where Anglo-Saxon jurisprudence is followed, 'privacy' is recognised as an important aspect of the liberty of human beings. It is further submitted that it is too late in the day for the Union of India to argue that the Constitution of India does not recognise privacy as an aspect of the liberty under Article 21 of the Constitution of India. At least to the extent that the right of a person to be secure in his house and not to be disturbed unreasonably by the State or its officers is

⁴ Para 9. "Right to privacy is not enumerated as a fundamental right in our Constitution but has been inferred from Article 21."

⁵ Para 18. "The right to privacy — by itself — has not been identified under the Constitution. As a concept it may be too broad and moralistic to define it judicially. Whether right to privacy can be claimed or has been infringed in a given case would depend on the facts of the said case. But the right to hold a telephone conversation in the privacy of one's home or office without interference can certainly be claimed as "right to privacy". Conversations on the telephone are often of an intimate and confidential character. Telephone conversation is a part of modern man's life. It is considered so important that more and more people are carrying mobile telephone instruments in their pockets. Telephone conversation is an important facet of a man's private life. Right to privacy would certainly include telephone conversation in the privacy of one's home or office. Telephone-tapping would, thus, infract Article 21 of the Constitution of India unless it is permitted under the procedure established by law.

19. Right to freedom of speech and expression is guaranteed under Article 19(1)(a) of the Constitution. This freedom means the right to express one's convictions and opinions freely by word of mouth, writing, printing, picture, or in any other manner. When a person is talking on telephone, he is exercising his right to freedom of speech and expression. Telephone-tapping unless it comes within the grounds of restrictions under Article 19(2) would infract Article 19(1)(a) of the Constitution."

expressly recognized and protected in **Kharak Singh** (*supra*) though the majority did not describe that aspect of the liberty as a right of privacy, it is nothing but the right of privacy.

12. We are of the opinion that the cases on hand raise far reaching questions of importance involving interpretation of the Constitution. What is at stake is the amplitude of the fundamental rights including that precious and inalienable right under Article 21. If the observations made in **M.P. Sharma** (*supra*) and **Kharak Singh** (*supra*) are to be read literally and accepted as the law of this country, the fundamental rights guaranteed under the Constitution of India and more particularly right to liberty under Article 21 would be denuded of vigour and vitality. At the same time, we are also of the opinion that the institutional integrity and judicial discipline require that pronouncement made by larger Benches of this Court cannot be ignored by the smaller Benches without appropriately explaining the reasons for not following the pronouncements made by such larger Benches. With due respect to all the learned Judges who rendered the subsequent judgments - where right to privacy is asserted or referred to their Lordships concern for the liberty of human beings, we are of the humble opinion that there appears to be certain amount of apparent unresolved contradiction in the law declared by this Court.

13. Therefore, in our opinion to give a quietus to the kind of

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controversy raised in this batch of cases once for all, it is better that the ratio decidendi of **M.P. Sharma** (*supra*) and **Kharak Singh** (*supra*) is scrutinized and the jurisprudential correctness of the subsequent decisions of this Court where the right to privacy is either asserted or referred be examined and authoritatively decided by a Bench of appropriate strength.

14. We, therefore, direct the Registry to place these matters before the Hon'ble the Chief Justice of India for appropriate orders.

.....J.
(J. Chelameswar)

.....J.
(S.A. Bobde)

.....J.
(C. Nagappan)

New Delhi
August 11, 2015

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.494 OF 2012

Justice K.S. Puttaswamy (Retd.) & Another ...Petitioners

Versus

Union of India & Others

... Respondents

WITH

TRANSFERRED CASE (CIVIL) NO.151 OF 2013

TRANSFERRED CASE (CIVIL) NO.152 OF 2013

WRIT PETITION (CIVIL) NO.829 OF 2013

WRIT PETITION (CIVIL) NO.833 OF 2013

WRIT PETITION (CIVIL) NO.932 OF 2013

TRANSFER PETITION (CIVIL) NO.312 OF 2014

TRANSFER PETITION (CIVIL) NO.313 OF 2014

WRIT PETITION (CIVIL) NO.37 OF 2015

WRIT PETITION (CIVIL) NO.220 OF 2015

TRANSFER PETITION (CIVIL) NO.921 OF 2015

CONTEMPT PETITION (CIVIL) NO.144 OF 2014 IN WP(C) 494/2012

CONTEMPT PETITION (CIVIL) NO.470 OF 2015 IN WP(C) 494/2012

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ORDER

Having regard to importance of the matter, it is desirable
that the matter be heard at the earliest.

.....J.
(J. Chelameswar)

.....J.
(S.A. Bobde)

.....J.
(C. Nagappan)

New Delhi
August 11, 2015

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REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO.494 OF 2012

Justice K.S. Puttaswamy (Retd.) & Another ... Petitioners

Versus

Union of India & Others ... Respondents

WITH

TRANSFERRED CASE (CIVIL) NO.151 OF 2013

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TRANSFER PETITION (CIVIL) NO.921 OF 2015

CONTEMPT PETITION (CIVIL) NO.144 OF 2014 IN WP(C) 494/2012

CONTEMPT PETITION (CIVIL) NO.470 OF 2015 IN WP(C) 494/2012

INTERIM ORDER

After the matter was referred for decision by a larger Bench, the learned counsel for the petitioners prayed for further interim orders. The last interim order in force is the order of this Court dated 23.9.2013 which reads as follows:-

“....

All the matters require to be heard finally. List all matters for final hearing after the Constitution Bench is over.

In the meanwhile, no person should suffer for not getting the Aadhaar card inspite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Aadhaar card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant."

It was submitted by Shri Shyam Divan, learned counsel for the petitioners that the petitioners having pointed out a serious breach of privacy in their submissions, preceding the reference, this Court may grant an injunction restraining the authorities from proceeding further in the matter of obtaining biometrics etc. for an Aadhaar card. Shri Shyam Divan submitted that the biometric information of an individual can be circulated to other authorities or corporate bodies which, in turn can be used by them for commercial exploitation and, therefore, must be stopped.

The learned Attorney General pointed out, on the other hand, that this Court has at no point of time, even while making the interim order dated 23.9.2013 granted an injunction restraining the Unique Identification Authority of India from going ahead and obtaining biometric or other information from a citizen for the purpose of a Unique Identification Number, better known as "Aadhaar card". It was further submitted that the respondents have gone ahead with the project and have issued Aadhaar cards to

about 90% of the population. Also that a large amount of money has been spent by the Union Government on this project for issuing Aadhaar cards and that in the circumstances, none of the well-known considerations for grant of injunction are in favour of the petitioners.

The learned Attorney General stated that the respondents do not share any personal information of an Aadhaar card holder through biometrics or otherwise with any other person or authority. This statement allays the apprehension for now, that there is a widespread breach of privacy of those to whom an Aadhaar card has been issued. It was further contended on behalf of the petitioners that there still is breach of privacy. This is a matter which need not be gone into further at this stage.

The learned Attorney General has further submitted that the Aadhaar card is of great benefit since it ensures an effective implementation of several social benefit schemes of the Government like MGNREGA, the distribution of food, ration and kerosene through PDS system and grant of subsidies in the distribution of LPG. It was, therefore, submitted that restraining the respondents from issuing further Aadhaar cards or fully utilising the existing Aadhaar cards for the social schemes of the Government should be allowed.

The learned Attorney General further stated that the

respondent Union of India would ensure that Aadhaar cards would only be issued on a consensual basis after informing the public at large about the fact that the preparation of Aadhaar card involving the parting of biometric information of the individual, which shall however not be used for any purpose other than a social benefit schemes.

Having considered the matter, we are of the view that the balance of interest would be best served, till the matter is finally decided by a larger Bench if the Union of India or the UIDA proceed in the following manner:-

1. The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card;
2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen;
3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme;
4. The information about an individual obtained by the Unique

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Identification Authority of India while issuing an Aadhaar card shall not be used for any other purpose, save as above, except as may be directed by a Court for the purpose of criminal investigation.

Ordered accordingly.

.....J.
(J. Chelameswar)

.....J.
(S.A. Bobde)

.....J.
(C. Nagappan)

New Delhi
August 11, 2015

ITEM NO.501

COURT NO.1

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 494/2012

JUSTICE K.S.PUTTASWAMY (RETD) & ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln.(s) for interim relief and appln.(s) for impleadment/directions and appln.(s) for impleadment and appln.(s) for impleadment and appln.(s) for impleadment and appln.(s) for impleadment , permission to file addl.documents and permission to file addl.affidavitand Office Report)

WITH T.C.(C) No. 151/2013

(With appln.(s) for modification of court's order and appln.(s) for impleadment as party respondent)

T.C.(C) No. 152/2013

With W.P.(C) No. 829/2013

(With appln.(s) for interim relief and appln.(s) for impleadment/directions and appln.(s) for impleadment and appln.(s) for impleadment and appln.(s) for impleadment and appln.(s) for impleadment and Office Report)

W.P.(C) No. 833/2013

(With appln.(s) for permission to file additional documents and appln.(s) for impleadment and appln.(s) for directions and appln.(s) for impleadment and appln.(s) for impleadment and Office Report)

W.P.(C) No. 932/2013

(With appln.(s) for clarification of court's order and appln.(s) for directions and appln.(s) for interim directions and Office Report)

T.P.(C) No. 312/2014

(With Office Report)

T.P.(C) No. 313/2014

(With Office Report)

W.P. (C) No. 37/2015
(With appln.(s) for permission to file additional documents and
appln.(s) for interim stay and appln.(s) for permission to file
additional documents and appln.(s) for directions and appln.(s) for
impleadment and Office Report)

W.P. (C) No. 220/2015
(With appln.(s) for directions and Office Report)

T.P. (C) No. 921/2015
(With Office Report)

CONMT.PET. (C) No. 144/2014 In W.P. (C) No. 494/2012
(With appln.(s) for directions and appln.(s) for directions and
Office Report)

CONMT.PET. (C) No. 470/2015 In W.P. (C) No. 494/2012
(With appln.(s) for exemption from filing O.T. and Office Report)

SLP(Crl) No. 2524/2014
(With Office Report)

CONMT.PET. (C) No. 674/2015 In W.P. (C) No. 829/2013
(With Office Report)

Date : 15/10/2015 These petitions/cases were called on for hearing
today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE M.Y. EQBAL
HON'BLE MR. JUSTICE C. NAGAPPAN
HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) in

WP(C) No. 829/2013 Mr. Shyam Divan, Sr. Adv.
Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Anuj Sarma, Adv.
Ms. Niharika, Adv.
Ms. Titisha Mukherjee, Adv.
For M/s. K.J. John & Co., Advs.

WP(C) No. 37/2015 Mr. Gopal Subramaniam, Sr. Adv.
Ms. Aishwarya Bhati, Adv.
Mr. Talha Abdul Rahman, Adv.
Ms. Anusha Ramesh, Adv.
Mr. Prateek Joshi, Adv.
Ms. Neha Meena, Adv.

Mr. Anirban Sen, Adv.
Mr. Adarsh tiwari, Adv.
Mr. T. Gopal, Adv.
Mr. Dinesh, Adv.

WP(C) no. 494/2012 Mr. Soli Sorabjee, Sr. Adv.
Mr. Sanjay Kumar Yadav, Adv.
Mr. Anish Kumar Gupta, Adv.
Mr. Aditya Kumar Dubey, Adv.
Mr. Gaurav Kumar, Adv.

TP(C) No. 151/2013 Mrs. Geetha Kovilan, Adv.
Mr. P. R. Kovilan, Adv.
Mr. V. Vasudevan, Adv.

TP(C) No. 921/2015 Ms. Pinky Anand, ASG
Mr. S. S. Rawat, Adv.
Mr. D. S. Mahra, Adv.

TC(C) No. 152/2013 Ms. Meenakshi Arora, Sr. Adv.
Mr. Rahul Narayan, Adv.
Mr. Mohit Singh, Adv.

Mr. Vijay Kumar, Adv.

Mr. Amit Meharia, Adv.
Mr. Dhritiman Das, Adv.
for M/s. Meharia & Company, Adv.

WP(C) no. 932/2013 Dr. Abhishek Atrey, Adv.
CC(C) no. 470/2015 Mr. Sella Kumar, Adv.

Ms. Nitya Ramakrishnan, Adv.
Mr. Shadan Farasat, Adv.
Ms. Guneet Kaur, Adv.
Ms. Rita Singh, Adv.
Mr. Vaibhav Tiwari, Adv.

For Respondent(s)
UOI

Mr. Mukul Rohatgi, AG
Ms. Pinky Anand, ASG
Mr. Ajay Sharma, Adv.
Mr. Zoheb Hossain, Adv.
Mr. Pravesh Thakur, Adv.
Mr. Manish Vashistha, Adv.
Ms. Diksha Rai Adv.
Ms. Sadhana Sandhu, Adv.
Mr. Harpreet S. Sandu, Adv.
Mr. Kaushal Yadav, Adv.
Mr. A. Sen Gupta, Adv.

Devanshi Singh, Adv.
 Ms. Binu Tamta Adv.
 Mr. Meenesh Kr. Dubey, Adv.
 Mrs. Anil Katiyar, Adv.
 Mr. D. S. Mahra, Adv.
 Mr. Vakul Sharma, Adv.

Mr. J. M. Kalia, Adv.
 Mr. Balendu Shekhar, Adv.
 Ms. Somya Rathore, Adv.
 Ms. Kritika Sachdeva, Adv.
 Ms. Saudamini Sharma, Adv.
 Ms. Snibha Mehra, Adv.
 Mr. Karan Seth, Adv.
 Mr. Rishabh Jain, Adv.
 Mr. D. S. Mahra, Adv.

SEBI

Mr. Tushar Mehta, ASG
 Mr. Avinash Tripathi, Adv.
 Mr. Harish Pandey, Adv.

I.A.No.31/2015 in
 W.P. (C) NO.494/12

Dr. Lalit Bhasin, Adv.
 Mr. Nina Gupta, Adv.
 Mr. Mudit Sharma, Adv.
 Mr. Parvez Khan, Adv.
 Ms. Palak Chadha, Adv.

IA no. 11/2014

Mr. Gopal Sankaranarayanan, Adv.
 Ms. Savita Singh, Adv.
 Ms. Nidhi Bhalla, Adv.

State of Telangana

Mr. S. Udaya Kumar Sagar, Adv.
 Mr. Krishna Kumar Singh, Adv.

RBI

Mr. Jayant Bhushan, Sr. Adv.
 Mr. Kuldeep S. Parihar, Adv.
 Mr. H. S. Parihar, Adv.

State of Goa

Mr. Ninad Laud, Adv.
 Mr. Karan Mathur, Adv.
 Mr. Jayant Mohan, Adv.

State of Nagaland

Ms. K. Enatoli Sema, Adv.
 Mr. Edward Belho, Adv.
 Mr. Amit Kumar Singh, Adv.

A&N Administration

Mr. K. V. Jagdishvaran, Adv.
 Ms. G. Indira, Adv.

State of Assam

Mr. Navnit Kumar, Adv.
 Ms. Deepika Ghatowor, Adv.
 For M/s. Corporate Law Group, Adv.

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State of HP	Mr. J.S. Attri, Sr. Adv. Mr. Suryanarayana Singh, Sr. AAG Mr. Varinder Kumar Sharma, Adv. Mr. Sumeet Prakash, Adv. Ms. Pragati Neekhara, Adv.
State of Maharashtra	Mr. Nachiketa Joshi, Adv. Mr. Nishant Katneshwarkar, Adv.
I.A.NO.5/2014 in W.P.(C)NO.833/2013	Mr.Gopal Subramaniam, Sr.Adv. Mr.Priyadarshi Banerjee, Adv. Mr.Praveen Sehrawat, Adv. Mr.Saransh Jain, Adv. Mr.E.C.Agrawala, Adv.
State of Bihar	Mr. Abhinav Mukerji, Adv. Ms. Bihu Sharma, Adv.
State of AP	Mr. Guntur Prabhakar, Adv. Ms. Prerna Singh, Adv.
State of Uttarakhand	Mr. Mukesh Verma, Adv. Mr. Jatinder K. Bhatia, Adv.
State of TN	Mr. B. Balaji, Adv. Mr. R. Rakesh Sharma, Adv. Ms.R.Shase, Adv.
State of W.B.	Mr.Soumitra G.Chaudhuri, Adv. Mr.Parijat Sinha, Adv.
State of Manipur	Mr. Sapam Biswajit Meitei, Adv. Mr. Z.H. Isaac Haiding, Adv. Mr. S. Vijayanand Sharma, Adv. Mr.B.Khusbanshi, Adv. Mr. Ashok Kumar Singh, Adv.
State of Mizoram	Mr. K.N. Madhusoodhanan, Adv. Mr. T.G.N. Nair, Adv.
State of Sikkim	Ms. Aruna Mathur, Adv. Mr.Avnesh Arputham, Adv. Ms.Anuradha Arputham, Adv. For M/s.Arputham Aruna & Co.,Adv.
ECI	Mr. Ashok Desai, Sr. Adv. Mr. S.K. Mendiratta, Adv. Ms. Anu Bindra, Adv. Mr. Mohit D. Ram, Adv.

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State of Tripura Mr. Gopal Singh, Adv.
Mr. Rituraj Biswas, Adv.
Ms. Varsha Poddar, Adv.

State of Arunachal Pradesh Mr. Anil Shrivastav, Adv.
Mr. Rituraj Biswas, Adv.

UT Chandigarh Ms. Vimla Sinha, Adv.
Mr. Gopal Singh, Adv.

State of Kerala Mr. Jogy Scaria, Adv.
Ms. Beena Victor, Adv.

State of Punjab Mr. Sanchar Anand, AAG
Mr. Nishant Bishnoi, Adv.
Mr. Apoorv Singhal, Adv.
Mr. J.S. Chhabra, Adv.
Mr. Kuldeep Singh, Adv.

State of Jharkhand Mr. Ajit Kr. Sinha, Sr. Adv.
Mr. Tapes Kumar Singh, Adv.
Mr. Mohd. Waquas, Adv.

State of Chhatisgarh Mr. C.D. Singh, Adv.
Ms. Sylona Mohapatara, Adv.

Govt. of Puducherry Mr. V.G. Pragasaam, Adv.
Mr. Prabu Ramasubramanian, Adv.

IA No. 5/2014 in
WP(C) no. 833/2013 Mr. Praveen Sehrawat, Adv.
Mr. Priyadarshi Banerjee, Adv.
Mr. Nikhil Nayyar, Adv.

State of Karnataka Ms. Anitha Shenoy, Adv.
Ms. Maitreyee Mishra, Adv.

State of WB Mr. Soumitra G. Chaudhuri, Adv.
Mr. Anip Sachthey, Adv.

State of Rajasthan Mr. Nitish Bagri, Adv.
Mr. Divyesh Maheshwari, Adv.
Mr. Ajay Choudhary, Adv.
Mr. Gaurav Chaudhary, Adv.
Ms. Mumtaz Bhalla, Adv.
Mr. Abhay Kumar, Adv.
Mr. Aniruddha P. Mayee, Adv.

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I.A.Nos.9 & 10/2013 Mr. Garvesh Kabra, Adv.
In WP(C)NO.494/12 Ms. Pooja Kabra, Adv.

State of Gujarat Ms. Hemantika Wahi, Adv.
Ms. Jesal Wahi, Adv.
Ms. Puja Singh, Adv.

Ms. C. K. Sucharita, Adv.

Mr. Kamal Mohan Gupta, Adv.

Mr. Dinkar Kalra, Adv.

Mr. Amit Sharma, Adv.

State of Haryana Mr. Anil Grover, AAG
Mr. Satish Kapoor, Adv.
Mr. Sanjay Kr. Visen, Adv.
Mr. Samar Vijay Singh, Adv.

State of U.P. Mr. Gaurav Bhatia, AAG
Mr. Adarsh Upadhyay, Adv.
Mr. Gaurav Srivastava, Adv.

State of M.P. Mr. Naveen Sharma, adv.
Ms. Swati Bhushan Sharma, Adv.
Mr. Mishra Saurabh, Adv.

I.A.No.24 & 25/15 Mr. K. Ramamoorthy, Sr. Adv.
In WP(C)No.494/12 Mr. Dipak K. Nag, Adv.
Mr. Parmanand Gaur, Adv.
Ms. Apurva Upamanyu, Adv.

I.A.Nos.22-23/15
In W.P.(C)NO.494/2012 Mr. Sanjay Kapur, Adv.
Mr. Anmol Chandan, Adv.

Mr. Anoop J. Bhambani, Sr. Adv.
Dr. Abhishek Attrey, Adv.
Mr. Ravindra Lakhande, Adv.
Mr. Sumit Rajora, Adv.

State of H.P. Mr. J.S. Attri, Sr. adv.
Mr. Suryanarayana Singh, Sr. AAG
Mr. Varinder Kr. Sharma, Adv.
Mr. Chandra Nand Jha, Adv.

Intervenor Mr. Saikrishna Rajagopal, Adv.
Mr. Juhen George, Adv.
Mr. Arjun Rananathan, Adv.

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Pen.Fun.Reg.&D.A. Mr.R.Sudhinder, Adv.
Ms.Ekta Bhasin, Adv.
Mr.Ashok Mathur, Adv.

I.A.NO.26/15 Mr.Shiv Mangal Sharma,Adv.
Mr.Ankit Shah, Adv.
Mr.Puneet Parihar, Adv.
Mr.Shrey Kapoor, Adv.
Mr.Nishit Agrawal, Adv.
Ms.Anjali Chauhan, Adv.
Mr.Sitesh Narayan Singh, Adv.
Mr.Saurabh Rajpal, Adv.
Mr.Avanish Rathi, Adv.
Mr.Vivek Ranjan Mohanty, Adv.
Mr.Adhiraj Singh Rajawat, Adv.

Mr.Shanti Mukharjee, Adv.
Mr.Manoj K.Mishra, Adv.
Ms.Shreya Mukharjee, Adv.
Mr.Sandeep Kr.Dwivedi, Adv.
Mr.Shivam Verma Adv.

Mr.Nikhil Nayyar, Adv.

Mr.Ranjan Mukherjee, Adv.

Ms.Anitha Shenoy, Adv.

Ms.Ruchi Kohli, Adv.

Mr.Dinkar Kalra, Adv.

Mr.Mohit D.Ram, Adv.

UPON hearing the counsel the Court made the following
O R D E R

All the applications for intervention and
impleadment be heard along with the respective main
matters.

Application(s) filed by the Union of India/UIDAI
is/are disposed of.

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Since there is some urgency in the matter, we request the learned Chief Justice of India to constitute a Bench for final hearing of these matters at the earliest.

Ordered accordingly.

(G.V.Ramana)
AR-cum-PS

(Vinod Kulvi)
Asstt.Registrar

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 494 OF 2012

JUSTICE K.S. PUTTASWAMY ..PETITIONER(S)
(RETD) & ANR.

VERSUS

UNION OF INDIA & ORS. .. RESPONDENT(S)

T.C. (C) No. 151/2013

T.C. (C) No. 152/2013

WRIT PETITION(C) No. 829/2013

WRIT PETITION(C) No. 833/2013

WRIT PETITION(C) No. 932/2013

TRANSFER PETITION(C) No. 312/2014

TRANSFER PETITION(C) No. 313/2014

WRIT PETITION(C) No. 37/2015

WRIT PETITION(C) No. 220/2015

TRANSFER PETITION(C) No. 921/2015

CONMT.PET. (C) No. 144/2014

In

WRIT PETITION(C) No. 494/2012

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CONMT.PET.(C) No. 470/2015

In

WRIT PETITION(C) No. 494/2012

SPECIAL LEAVE PETITION (CRL.) No. 2524/2014

CONMT.PET.(C) No. 674/2015

In

WRIT PETITION(C) No. 829/2013

O R D E R

1. This Bench is constituted only for the purpose of deciding the applications filed by the Union of India seeking certain clarification/modification in the orders passed by a Bench of three learned Judges of this Court dated 11.08.2015.

2. We have heard Shri Mukul Rohtagi, learned Attorney General for India, Shri Shyam Divan, Shri Soli Sorabjee and Shri Gopal Subramaniam, learned senior counsels in extenso.

3. After hearing the learned Attorney General for India and other learned senior counsels, we are of the view that in paragraph 3 of the Order dated 11.08.2015, if we add, apart from the other two Schemes, namely, P.D.S. Scheme and the L.P.G. Distribution Scheme, the Schemes like The Mahatma Gandhi National Rural Employment Guarantee Scheme

(MGNREGS), National Social Assistance Programme (Old Age Pensions, Widow Pensions, Disability Pensions) Prime Minister's Jan Dhan Yojana (PMJDY) and Employees' Provident Fund Organisation (EPFO) for the present, it would not dilute earlier order passed by this Court. Therefore, we now include the aforesaid Schemes apart from the other two Schemes that this Court has permitted in its earlier order dated 11.08.2015.

4. We impress upon the Union of India that it shall strictly follow all the earlier orders passed by this Court commencing from 23.09.2013.

5. We will also make it clear that the Aadhaar card Scheme is purely voluntary and it cannot be made mandatory till the matter is finally decided by this Court one way or the other.

6. All the applications for intervention and impleadment be heard along with the respective main matters.

7. Application(s) for modification/ clarification filed by Union of India/UIDAI is/are disposed of.

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8. Since there is some urgency in the matter, we request the learned Chief Justice of India to constitute a Bench for final hearing of these matters at the earliest.

Ordered accordingly.

.....CJI
[H.L. DATTU]

.....J.
[M.Y. EQBAL]

.....J.
[C. NAGAPPAN]

.....J.
[ARUN MISHRA]

.....J.
[AMITAVA ROY]

NEW DELHI,
OCTOBER 15, 2015.

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ANNEXURE P-12

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ITEM NO.53

COURT NO.8

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 686/2016

ALL BENGAL MINORITY STUDENTS COUNCIL AND ANR. Petitioner(s)

VERSUS

UNION OF INDIA AND ORS. Respondent(s)

(with appln. (s) for interim relief and office report)

Date : 14/09/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Petitioner(s) Mr. Gopal Jain, Sr. Adv.
Mr. Suhaan Mukerji, Adv.
Mr. Vishal Prasad, Adv.
Ms. C. Chaudhry, Adv.
Ms. Ritika Sethi, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Heard learned senior counsel for the
petitioners.

Our attention was invited to Para 5 of the
order dated 15.10.2015 passed by this Court, which
reads thus:

"5. We will also make it clear that
the Aadhaar card Scheme is purely
voluntary and it cannot be made
mandatory till the matter is finally
decided by this Court one way or the

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other."

Learned senior counsel for the petitioners has also invited our attention to the relevant portion of Para 3 of the letter dated 14.07.2016, written to the Chief Secretary/Administrator of all State Governments/UT Administration, by the Under Secretary to the Government of India by which the following directions are given to the students, which reads thus:

"3.....Only Online application under the Scheme will be accepted and no request for Offline applications will be entertained. It may be noted that submission of Aadhaar is mandatory."

Learned senior counsel submits that the aforesaid directions are contrary to the interim order passed by the Constitution Bench and therefore, to that extent they are not tenable in law.

Having regard to the facts and circumstances of the case, the material evidence available on record and the submissions made by learned senior counsel we stay the operation and implementation of letters dated 14.07.2006 (i.e. Annexure P-5, P-6 and P-7) for Pre-Matric Scholarship Scheme, Post-Matric Scholarship Scheme and Merit-cum-Means Scholarship Scheme to the extent they have made submission of Aadhaar mandatory and direct the Ministry of Electronics and Information

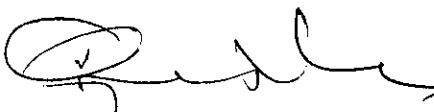
Technology, Government of India i.e. Respondent No.2 to remove Aadhaar number as a mandatory condition for student Registration form at the National Scholarship Portal of Ministry of Electronics and Information Technology, Government of India at the website <http://scholarships.gov.in/newStudentRegFrm> and stay the implementation of clause (c) of the 'Important Instructions' of the advertisement dated 20.08.2016 for the Pre-Matric Scholarship Scheme, Post-Matric Scholarship Scheme and Merit-cum-Means Scholarship Scheme, during the pendency of this writ petition.

Issue notice.

(VINOD KUMAR JHA)
AR-CUM-PS

(MALA KUMARI SHARMA)
COURT MASTER

(Copy of the order be given dasti)


TRUE COPY

ITEM NO.60

COURT NO.5

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 797/2016

S.G. VOMBATKERE AND ANR.

Petitioner(s)

VERSUS

UNION OF INDIA AND ANR.

Respondent(s)

(with appln. (s) for interim relief and permission to file additional documents)

➤ Date : 28/10/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.
Mr. Pratap Venugopal, Adv.
Mr. Anuj Sarma, Adv.
Ms. Niharika, Adv.
Mr. Udayditya Banerjee, Adv.
Mr. Prasana S, Adv.
Ms. Samiksha, Adv.
For M/s. K. J. John & Co., Adv.

➤ For Respondent(s) Mr. Mukul Rohatgi, A.G.
Mr. Ajay Sharma, Adv.
Mr. Zoheb Hossain, Adv.
Mr. D.S. Mahra, Adv.
Ms. Anil Katiyar, Adv.
Mr. B.K. Prasad, Adv.
Ms. Ranjeeta Rohatgi, Adv.
Mr. Vikramjit Banerjee, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Issue Rule Nisi.

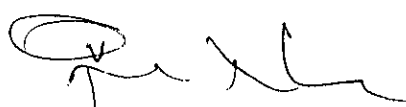
Tag with W.P. (C) No. 494/2012 and connected matters.

Signature Not Verified

Digital Signature by OM
PANKASH SHARMA
Date: 20/10/2016
Time: 17:51:21 IST
Reason: []

[O.P. SHARMA]
AR-CUM-PS

[RAJINDER KAUR]
COURT MASTER


TRUE COPY

ITEM NO.9

COURT NO.1

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s).607/2016

LOKNITI FOUNDATION

Petitioner(s)

VERSUS

UNION OF INDIA AND ANR.

Respondent(s)

Date : 06/02/2017 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s) Dr.Ashok Dhamija, Adv.
Dr. Kailash Chand, AOR

For Respondent(s) Mr.Mukul Rohtagi, AG
Mr.A.N.S.Nadkarni, ASG
Mr.Vijay Prakash, Adv.
Ms.Sadhna Sandhu, Adv.
Mr.Jai Dehadrai, Adv.
Mr.Santosh Salvadore Rebello, Adv.
Ms.Sneha S.Prabhu Tendulkar, Adv.
Mr.Ajit Yadav, Adv.
Mr.G.S.Makker, Adv.

For TRAI Mr.Sanjay Kapur, Adv.
Mr.Anmol Chandan, Adv.
Ms.Priyanka Das, Adv.
Ms.Shubhra Kapur, Adv.

Upon hearing the counsel the Court made the following
O R D E R

The instant petition is disposed of, in terms of the
signed order.

(SATISH KUMAR YADAV)
AR-CUM-PS

(RENUKA SADANA)
ASSISTANT REGISTRAR

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) No. 607 of 2016

LOKNITI FOUNDATION

.....PETITIONER

VERSUS

UNION OF INDIA AND ANR.

.....RESPONDENTS

O R D E R

1. The petitioner has approached this Court for a commendable cause. The prayer made in the writ petition is, that there should be a definite mobile phone subscriber verification scheme, to ensure 100% verification of the subscriber. It is the prayer of the petitioner, that the identity of each subscriber, as also, his/her address should be verified, so that no fake or unverified phone subscriber, can misuse a mobile phone. It was the contention of the learned counsel for the petitioner, that the instant prayer is imperative, as mobile phones are, used not only for domestic criminal activity, but also, for known terrorist activity (sometimes with foreign involvement).

Signature Not Verified
Digitally signed by
SATISH KUMAR YADAV
Date: 2023.03.07
14:03:11
Reason: []

Consequent upon notice being issued to the Union of India, a short counter affidavit has been filed on its behalf, wherein, it is averred as under:

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"22. That however, the department has launched 'Aadhaar based E-KYC for issuing mobile connections' on 16th August, 2016 wherein the customer as well as Point of Sale (PoS) Agent of the TSP will be authenticated from Unique Identification Authority of India (UIDAI) based on their biometrics and their demographic data received from UIDAI is stored in the database of TSP along with time stamps. Copy of letter No.800-29/2010-VAS dated 16.08.2016 is annexed herewith and marked as Annexure R-1/10.

23. As on 31.01.2017, 111.31 Crores aadhaar card has been issued which represent 87.09% of populations. However, still there are substantial number of persons who do not have aadhaar card because they may not be interested in having Aadhaar being 75 years or more of age or not availing any benefit of pension or Direct Benefit Transfer (DBT). Currently Aadhaar card or biometric authentication is not mandatory for obtaining a new telephone connection. As a point of information, it is submitted that those who have Aadhaar card/number normally use the same for obtaining a new telephone connection using E-KYC process as mobile connection can be procured within few minutes in comparison to 1-2 days being taken in normal course.

24. That in this process, there will be almost 'NIL' chances of delivery of SIM to wrong person and the traceability of customer shall greatly improve. Further, since no separate document for Proof of Address or Proof of Identity will be taken in this process, there will be no chances of forgery of documents."

3. The learned Attorney General, in his endeavour to demonstrate the effectiveness of the procedure, which has been put in place, has invited our attention to the application form, which will be required to be filled up, by new mobile subscribers, using e-KYC process. It was the submission of the learned Attorney General, that the procedure now being adopted, will be sufficient to alleviate the fears, projected in the writ petition.

4. Insofar as the existing subscribers are concerned, it was submitted on behalf of the Union of India, that more than 90% of the subscribers are using pre-paid connections. It was pointed out, that each pre-paid connection holder, has to per force renew his connection periodically, by making a deposit for further user. It was submitted, that these 90% existing subscribers, can also be verified by putting in place a mechanism, similar to the one adopted for new subscribers. Learned Attorney General states, that an effective programme for the same, would be devised at the earliest, and the process of identity verification will be completed within one year, as far as possible.
5. In view of the factual position brought to our notice during the course of hearing, we are satisfied, that the prayers made in the writ petition have been substantially dealt with, and an effective process has been evolved to ensure identity verification, as well as, the addresses of all mobile phone subscribers for new subscribers. In the near future, and more particularly, within one year from today, a similar verification will be completed, in the case of existing subscribers. While complimenting the petitioner for filing the instant petition, we dispose of the same with the hope and expectation, that the undertaking given to this Court, will be taken seriously, and will be given effect to, as soon as possible.

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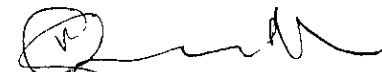
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6. The instant petition is disposed of, in the above terms.

.....CJI.
(JAGDISH SINGH KHEHAR)

.....J.
(N.V.RAMANA)

NEW DELHI;
FEBRUARY 6, 2017.


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